



**US Army Corps  
of Engineers**  
Philadelphia District

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# **Maintenance Dredging Sta. 0+600 to Sta. 22+665**

**Schuylkill River  
Mouth to University Avenue  
Philadelphia, PA**

**Construction Solicitation  
and Specifications**

**05 June 2000**



## **CAUTION TO BIDDERS**

All information required by the terms of the Solicitation must be furnished. **MISTAKES OR OMISSIONS CAN BE COSTLY.** Important items for you to check are included in but not limited to those listed below **This checklist is furnished only to assist you in submitting a proper bid.** Check as you read.

☐ Are you registered in the Central Contractor Database? See DFARS Clause 52.204-7004, "REQUIRED CENTRAL CONTRACTOR REGISTRATION", in Section 00700 of this solicitation.

☐ Have you acknowledged all amendments? Have you submitted your bid on the latest amended bid schedule?

☐ Have you completed the "Representations and Certifications" {Section 00600} portion of the Solicitation? Is your Contractor Establishment Code listed on the Standard Form 1442?

☐ Is your bid properly signed by an officer of your company?

☐ If a bid guarantee is required, is it included with your bid {A late bid guarantee is treated the same as a late bid.} and is it in the proper amount? {Usually 20 percent of the **total** bid price, including any options or additives.} If your bid guarantee is in the form of a bid bond, is the bond properly signed by both the bidder and surety and are all required seals affixed? A bid guarantee is required when your bid exceeds \$100,000.00.

☐ Is the name in which you submitted the bid the same on your bid as on the bid bond?

☐ If required, have you entered a unit price for each bid item? {The solicitation will specifically state when this is necessary.}

☐ The Government may reject a bid as nonresponsive if it is materially and mathematically unbalanced as to price for any bid item or combination of items. A bid is unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

☐ Are decimals in unit prices in the proper places? Are your figures legible?

☐ Are the extensions of your unit prices, and your total bid price correct?

☐ Are all erasures or corrections initialed by the person signing the bid?

☐ Have you restricted your bid by altering the provisions of the solicitation?

☐ If you are a large business and your bid is greater than \$1,000,000.00 have you included your Sub-Contracting Plan in your bid package? {NOTE: **AN AWARD WILL NOT BE MADE WITHOUT AN APPROVED SUB-CONTRACTING PLAN. IN ORDER TO BE APPROVED YOUR PLAN MUST DESIGNATE 5% OF THE TOTAL SUB-CONTRACTING DOLLARS TO SMALL DISADVANTAGED BUSINESSES**}.

☐ Is the envelope containing your bid properly identified that it is a sealed bid and does it contain the correct solicitation number and bid opening time?

☐ Will your bid arrive on time? See paragraph entitled "Late Submissions, Modifications, and Withdrawals of Bids" in the Instructions to Bidders {Section 00100} of the solicitation.

July 02, 1998



INVITATION NO. DACW61-00-B-0013

PHILADELPHIA DISTRICT  
CORPS OF ENGINEERS

INVITATION FOR BIDS  
FOR

MAINTENANCE DREDGING  
STA. 0+600 TO STA. 22+665

SCHUYLKILL RIVER  
MOUTH TO UNIVERSITY AVENUE  
PHILADELPHIA, PA

I. NOTE THE AFFIRMATIVE ACTION REQUIREMENT OF THE EQUAL OPPORTUNITY CLAUSE WHICH MAY APPLY TO THE CONTRACT RESULTING FROM THIS SOLICITATION.

II. BIDDERS ARE REQUIRED TO COMPLETE THE REPRESENTATION AND CERTIFICATIONS PORTION OF SECTION 00600 OF THIS SOLICITATION AND SUBMIT THIS WITH THEIR BID.

30 May 2000



<b>SOLICITATION, OFFER, AND AWARD</b> <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NO.	2. TYPE OF SOLICITATION	3. DATE ISSUED	PAGE OF PAGES
	DACW61-00-B-0013	<input checked="" type="checkbox"/> SEALED BID <i>(IFB)</i> <input type="checkbox"/> NEGOTIATED <i>(RFP)</i>	June 5, 2000	1 of 247

IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.

4. CONTRACT NO. DACW61-00-C-	5. REQUISITION/PURCHASE REQUEST NO. W25PHS-0041-1152	6. PROJECT NO.
7. ISSUED BY  U. S. Army Engineer District, Philadelphia 100 Penn Square East Wanamaker Building, Rm 643 Philadelphia, PA 19107-3390	CODE	8. ADDRESS OFFER TO  See block 6

9. FOR INFORMATION CALL	A. NAME William A. Bailey	B. TELEPHONE NO. (include area code) (NO COLLECT CALLS) 215-656-6932
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### SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

0. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date):

SOLICITATION NO. DACW61-00-B-0013

PROJECT: MAINTENANCE DREDGING, STATION 0+600 TO  
22+665, SCHUYKILL RIVER MOUTH TO UNIVERSITY  
AVENUE, PHILADELPHIA, PA

ISSUE DATE: MAY 30, 2000

BID OPENING DATE: JUNE 29, 2000 AT 11:00 A.M., LOCAL TIME

THIS IS AN UN-RESTRICTED PROCUREMENT

11. The Contractor shall begin performance within <u>10</u> calendar days and complete it within <u>120</u> calendar days after receiving	
<input type="checkbox"/> award, <input checked="" type="checkbox"/> notice to proceed. This performance period is <input checked="" type="checkbox"/> mandatory, <input type="checkbox"/> negotiable. (See Section 00800)	2A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12B.)
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	2B. CALENDAR DAYS  10

### 13. ADDITIONAL SOLICITATION REQUIREMENTS:

A. Sealed offers in original and 1 copies to perform the work required are due at the place specified in Item 8 by 11:00 a.m. (hour) local time  
July 6, 2000 (date). If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes  
containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

B. An offer guarantee ☒ is, ☐ is not required.

C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

D. Offers providing less than 60 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.





## OFFER (Must be fully completed by offeror)

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)

15. TELEPHONE NO. (Include area code)

16. REMITTANCE ADDRESS (Include only if different than Item 14)

CODE

FACILITY CODE

The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within \_\_\_\_\_ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)

AMOUNTS

18. The offeror agrees to furnish any required performance and payment bonds.

## 19. ACKNOWLEDGMENT OF AMENDMENTS

(The offeror acknowledges receipt of amendments to the solicitation - give number and date of each)

AMENDMENT NO.									
DATE									

20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER  
(Type or print)

20B. SIGNATURE

20C. OFFER DATE

## AWARD (To be completed by Government)

21. ITEMS ACCEPTED:

22. AMOUNT

23. ACCOUNTING AND APPROPRIATION DATA

24. SUBMIT INVOICES TO ADDRESS SHOWN IN  
(4 Copies unless otherwise specified)

ITEM

25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO

☐ 10 U.S.C 2304(c) ( )☐ 41 U.S.C 253(c) ( )

26. ADMINISTERED BY

CODE

27. PAYMENT WILL BE MADE BY

See Section G

See Section G

## CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

☒ 28. NEGOTIATED AGREEMENT Contractor is required to sign this document and return \_\_\_\_\_ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.

☐ 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award summarizes the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED  
TO SIGN (Type or print)

31A. NAME OF CONTRACTING OFFICER (Type or print)

30B. SIGNATURE

30C. DATE

31B. UNITED STATES OF AMERICA

BY

31C. AWARD  
DATE



BIDDING SCHEDULE  
(To be attached to SF 1442)

Item No.	Description	Estimated Quantity	Unit	Unit Price	Estimated Amount
1.	Mobilization & Demobilization	1	JOB	L.S.	\$
2.	Removal & Satisfactory Disposal of Material	241,483	CY	\$	\$
	Adjustment in bid price if Contractor-furnished disposal areas, described as hereinafter specified, are used, deduct	1	JOB	L.S.	\$
TOTAL ESTIMATED AMOUNT					\$

NOTE: Bidders must bid on all items.

ACCEPTANCE OF ADJUSTMENT FOR CONTRACTOR-FURNISHED DISPOSAL AREAS : Award of the contract on the basis of using Contractor furnished disposal areas will be subject to the acceptance of these disposal areas by the Contracting Officer. The Contractor shall be required to obtain all applicable Federal and State approvals as specified in SECTION: COORDINATION FOR CONTRACTOR-FURNISHED DISPOSAL AREAS of the Specifications. Failure by the bidder to furnish these approvals with the bid at the time of the bid opening will result in the bid for use of the Contractor-furnished disposal areas to be rejected as being non-responsive.

If the bidder proposes to use disposal areas other than those stipulated in the specifications, an adjustment in the bid price based on acceptance of the Contractor-furnished areas shall be entered as an adjustment item in the Bidding Schedule and the net total bid price. If the bid is based on the use of Contractor-furnished areas, the bidder shall execute DESCRIPTION OF DISPOSAL AREAS form, complete in accordance with the notations thereon, and shall submit the form with the bid. The bid shall adequately describe such Contractor-furnished areas and shall be accompanied by the written permission of the land owners. Description of Contractor-furnished areas shall include location, size and capacity of each area. If the bidder proposes to use both the Government-furnished areas shown on the Contract Drawings and Contractor-furnished areas, he shall describe in his bid the portion or portions of all the areas which will be used and the estimated quantity of dredged material to be placed in each area.



SECTION 00100 Bidding Schedule/Instructions to Bidders

CLAUSES INCORPORATED BY FULL TEXT

52.204-6 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUN 99)

(a) Contractor identification is essential for complying with statutory contract reporting requirements. Therefore, the offeror is requested to enter, in the block with its name and address on the Standard Form 33 or similar document, the annotation "DUNS" followed by the DUNS number which identifies the offeror's name and address exactly as stated in the offer.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror, if located within the United States, should call Dun and Bradstreet at 1-800-333-0505. The offeror should be prepared to provide the following information:

- (1) Company name.
- (2) Company address.
- (3) Company telephone number.
- (4) Line of business.
- (5) Chief executive officer/key manager.
- (6) Date the company was started.
- (7) Number of people employed by the company.
- (8) Company affiliation.

(c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.customerservice@dnb.com/>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at [globalinfo@dnb.com](mailto:globalinfo@dnb.com).

52.214-3 AMENDMENTS TO INVITATIONS FOR BIDS (DEC 1989)

- (a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.
- (b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on the form for submitting a bid, (3) by letter or telegram, or (4) by facsimile, if facsimile bids are authorized in the solicitation. The Government must receive the acknowledgment by the time and at the place specified for receipt of bids.

52.214-1 SOLICITATION DEFINITIONS--SEALED BIDDING (JUL 1987)

"Government" means United States Government.

"Offer" means "bid" in sealed bidding.

"Solicitation" means an invitation for bids in sealed bidding.

#### 52.214-5 SUBMISSION OF BIDS (MAR 1997)

(a) Bids and bid modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means) (1) addressed to the office specified in the solicitation, and (2) showing the time and date specified for receipt, the solicitation number, and the name and address of the bidder.

(b) Bidders using commercial carrier services shall ensure that the bid is addressed and marked on the outermost envelope or wrapper as prescribed in subparagraphs (a)(1) and (2) of this provision when delivered to the office specified in the solicitation.

(c) Telegraphic bids will not be considered unless authorized by the solicitation; however, bids may be modified or withdrawn by written or telegraphic notice.

(d) Facsimile bids, modifications, or withdrawals, will not be considered unless authorized by the solicitation.

(e) Bids submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

#### 52.214-4 FALSE STATEMENTS IN BIDS (APR 1984)

Bidders must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

#### 52.214-6 EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984)

Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective bidders before the submission of their bids. Oral explanations or instructions given before the award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

#### 52.214-7 LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (NOV 1999)

(a) Bidders are responsible for submitting bids, and any modifications or withdrawals, so as to reach the Government office designated in the invitation for bids (IFB) by the time specified in the IFB. If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids are due.

(b)(1) Any bid, modification, or withdrawal received at the Government office designated in the IFB after the exact time specified for receipt of bids is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late bid would not unduly delay the acquisition; and--

(i) If it was transmitted through an electronic commerce method authorized by the IFB, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of bids; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of bids and was under the Government's control prior to the time set for receipt of bids.

(2) However, a late modification of an otherwise successful bid that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the bid wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that bids cannot be received at the Government office designated for receipt of bids by the exact time specified in the IFB and urgent Government requirements preclude amendment of the IFB, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(e) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. If the IFB authorizes facsimile bids, bids may be withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision at 52.214-31, Facsimile Bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

#### 52.214-12 PREPARATION OF BIDS (APR 1984)

(a) Bidders are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at the bidder's risk.

(b) Each bidder shall furnish the information required by the solicitation. The bidder shall sign the bid and print or type its name on the Schedule and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(c) For each item offered, bidders shall (1) show the unit price, including, unless otherwise specified, packaging, packing, and preservation and (2) enter the extended price for the quantity of each item offered in the "Amount" column of the Schedule. In case of discrepancy between a unit price and an extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

(d) Bids for supplies or services other than those specified will not be considered unless authorized by the solicitation.

(e) Bidders must state a definite time for delivery of supplies or for performance of services, unless otherwise specified in the solicitation.

(f) Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

#### 52.214-18 PREPARATION OF BIDS--CONSTRUCTION (APR 1984)

(a) Bids must be (1) submitted on the forms furnished by the Government or on copies of those forms, and (2) manually signed. The person signing a bid must initial each erasure or change appearing on any bid form.

(b) The bid form may require bidders to submit bid prices for one or more items on various bases,

including--

- (1) Lump sum bidding;
- (2) Alternate prices;
- (3) Units of construction; or
- (4) Any combination of subparagraphs (1) through (3) above.

(c) If the solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "no bid" in the space provided for any item on which no price is submitted.

(d) Alternate bids will not be considered unless this solicitation authorizes their submission.

#### 52.214-19 CONTRACT AWARD--SEALED BIDDING--CONSTRUCTION (AUG 1996)

(a) The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government, considering only price and the price-related factors specified elsewhere in the solicitation.

(b) The Government may reject any or all bids, and waive informalities or minor irregularities in bids received.

(c) The Government may accept any item or combination of items, unless doing so is precluded by a restrictive limitation in the solicitation or the bid.

(d) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

#### 52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a firm, fixed-price contract resulting from this solicitation.

#### 52.225-10 NOTICE OF BUY AMERICAN ACT/BALANCE OF PAYMENTS PROGRAM REQUIREMENT--CONSTRUCTION MATERIALS (FEB 2000)

(a) Definitions. Construction material, domestic construction material, and foreign construction material, as used in this provision, are defined in the clause of this solicitation entitled "Buy American Act--Balance of Payments Program--Construction Materials" (Federal Acquisition Regulation (FAR) clause 52.225-9).

(b) Requests for determinations of inapplicability. An offeror requesting a determination regarding the inapplicability of the Buy American Act or Balance of Payments Program should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225-9 in the request. If an offeror has not requested a determination regarding the inapplicability of the



Buy American Act or Balance of Payments Program before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) Evaluation of offers. (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act or Balance of Payments Program, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR 52.225-9.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) Alternate offers.

(1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR 52.225-9, the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR 52.225-9 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR 52.225-9 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested--

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

#### 52.222-23 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR CONSTRUCTION (FEB 1999)

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade	Goals for female participation for each trade
17.3	6.9

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the --

- (1) Name, address, and telephone number of the subcontractor;
- (2) Employer's identification number of the subcontractor;
- (3) Estimated dollar amount of the subcontract;
- (4) Estimated starting and completion dates of the subcontract; and
- (5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is: Pennsylvania, Philadelphia County.

#### 52.233-2 SERVICE OF PROTEST (AUG 1996)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from: USAED Philadelphia, Attn: CENAP-CT-C (L. Toth), 100 Penn Square East, Wanamaker Bldg, Rm 643, Philadelphia, PA 19107-3390

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

## SECTION 00600 Representations &amp; Certifications

## CLAUSES INCORPORATED BY FULL TEXT

## 52.219-2 EQUAL LOW BIDS. (OCT 1995)

(a) This provision applies to small business concerns only.

(b) The bidder's status as a labor surplus area (LSA) concern may affect entitlement to award in case of tie bids. If the bidder wishes to be considered for this priority, the bidder must identify, in the following space, the LSA in which the costs to be incurred on account of manufacturing or production (by the bidder or the first-tier subcontractors) amount to more than 50 percent of the contract price.

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(c) Failure to identify the labor surplus area as specified in paragraph (b) of this provision will preclude the bidder from receiving priority consideration. If the bidder is awarded a contract as a result of receiving priority consideration under this provision and would not have otherwise received award, the bidder shall perform the contract or cause the contract to be performed in accordance with the obligations of an LSA concern.

## 52.219-19 SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (JAN 1997)

(a) Definition.

"Emerging small business" as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the standard industrial classification code assigned to a contracting opportunity.

(b) [Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.] The Offeror [ ] is, [ ] is not an emerging small business.

(c) (Complete only if the Offeror is a small business or an emerging small business, indicating its size range.)

Offeror's number of employees for the past 12 months (check this column if size standard stated in solicitation is expressed in terms of number of employees) or Offeror's average annual gross revenue for the last 3 fiscal years (check this column if size standard stated in solicitation is expressed in terms of annual receipts). (Check one of the following.)

No. of Employees    Avg. Annual Gross Revenues

\_\_\_\_ 50 or fewer    \_\_\_\_ \$1 million or less

\_\_\_\_ 51 - 100    \_\_\_\_ \$1,000,001 - \$2 million

\_\_\_\_ 101 - 250      \_\_\_\_ \$2,000,001 - \$3.5 million

\_\_\_\_ 251 - 500      \_\_\_\_ \$3,500,001 - \$5 million

\_\_\_\_ 501 - 750      \_\_\_\_ \$5,000,001 - \$10 million

\_\_\_\_ 751 - 1,000      \_\_\_\_ \$10,000,001 - \$17 million

\_\_\_\_ Over 1,000      \_\_\_\_ Over \$17 million

(End of provision)

**52.219-21      SMALL BUSINESS SIZE REPRESENTATION FOR TARGETED INDUSTRY  
CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION  
PROGRAM (MAY 1999)**

(Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.)

Offeror's number of employees for the past 12 months (check this column if size standard stated in solicitation is expressed in terms of number of employees) or Offeror's average annual gross revenue for the last 3 fiscal years (check this column if size standard stated in solicitation is expressed in terms of annual receipts). (Check one of the following.)

No. of Employees      Avg. Annual Gross Revenues

\_\_\_\_ 50 or fewer      \_\_\_\_ \$1 million or less

\_\_\_\_ 51 - 100      \_\_\_\_ \$1,000,001 - \$2 million

\_\_\_\_ 101 - 250      \_\_\_\_ \$2,000,001 - \$3.5 million

\_\_\_\_ 251 - 500      \_\_\_\_ \$3,500,001 - \$5 million

\_\_\_\_ 501 - 750      \_\_\_\_ \$5,000,001 - \$10 million

\_\_\_\_ 751 - 1,000      \_\_\_\_ \$10,000,001 - \$17 million

\_\_\_\_ 17 million

(End of provision)

**52.223-13      CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (OCT 1996)**

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(b) By signing this offer, the offeror certifies that--

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: (Check each block that is applicable.)

☐ (i) The facility does not manufacture, process or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

☐ (ii) The facility does not have 10 or more full-time employees as specified in section 313.(b)(1)(A) of EPCRA 42 U.S.C. 11023(b)(1)(A);

☐ (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

☐ (iv) The facility does not fall within Standard Industrial Classification Code (SIC) designations 20 through 39 as set forth in FAR section 19.102 of the Federal Acquisition Regulation; or

☐ (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

#### 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that --

(a) ☐ It has, ☐ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) ☐ It has, ☐ has not, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

#### 52.226-2 HISTORICALLY BLACK COLLEGE OR UNIVERSITY AND MINORITY INSTITUTION REPRESENTATION (MAY 1997)

(a) Definitions. As used in this provision--

"Historically Black College or University" means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority Institution" means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)) which, for the purpose of this provision, includes a Hispanic-serving institution of higher education as defined in Section 316(b)(1) of the Act (20 U.S.C. 1059c(b)(1)).

(b) Representation. The offeror represents that it--

☐ is not a Historically Black College or University;

☐ is not a Minority Institution.

252.209-7001 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) "Definitions."

As used in this provision --

(a) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for such acts of international terrorism. As of the date of this provision, terrorist countries include: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) "Significant interest" means --

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) "Prohibition on award."

In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) "Disclosure."

If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include --

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each government.

252.247-7022 REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA (AUG 1992)

(a) The Offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term supplies is defined in the Transportation of Supplies by Sea clause of this solicitation.

(b) Representation. The Offeror represents that it:

(1) Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(2) Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

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SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS  
SUBCONTRACTING PLAN

DATE: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

SOLICITATION OR CONTRACT NUMBER: \_\_\_\_\_

ITEM/SERVICE: \_\_\_\_\_

The following, together with any attachments, is hereby submitted as a Subcontracting Plan to satisfy the applicable requirements of Public Law 95-507 as implemented by OFPP Policy Letter 80-2.

1. (a) The following percentage goals (expressed in terms of a percentage of total planned subcontracting dollars) are applicable to the contract cited above or to the contract awarded under the solicitation cited.

(i) Small Business Concerns: \_\_\_\_\_% of total planned subcontracting dollars under this contract will go to subcontractors who are small business concerns.

(ii) Small Disadvantaged Business Concerns: \_\_\_\_\_% of total planned subcontracting dollars under this contract will go to subcontractors who are small concerns owned and controlled by socially and economically disadvantaged individuals. This percentage is included in the percentage shown under 1.(a)(i) above, as a subset.

(iii) Women-Owned Small Business Concerns: \_\_\_\_\_% of total planned subcontracting dollars under this contract will go to subcontractors who are women-owned small business concerns. This percentage is included in the percentage shown under 1.(a)(i) above, as a subset.

(b) The following dollar values correspond to the percentage goals shown in (a) above.

(i) Total dollars planned to be subcontracted to small business concerns:  
\$ \_\_\_\_\_.

(ii) Total dollars planned to be subcontracted to small disadvantaged business concerns:  
\$ \_\_\_\_\_. This dollar amount is included in the amount shown under 1.(b)(i) above, as a subset.

(iii) Total dollars planned to be subcontracted to women-owned small business concerns: \$\_\_\_\_\_. This dollar amount is included in the amount shown under 1.(b)(i) above, as a subset.

(c) The total estimated dollar value of all planned subcontracting (to all types of business concerns) under this contract is \$\_\_\_\_\_.

(d) The following principal products and/or services will be subcontracted under this contract, and the distribution among small, small disadvantaged, and women-owned small business concerns is as follows:

(Products/services planned to be subcontracted to small business concerns are identified by \*, to small disadvantaged business concerns by \*\* and women-owned small business concerns by \*\*\*)

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(Attachment may be used if additional space is required)

(e) The following method was used in developing subcontract goals (i.e., statement explaining how the product and service areas to be subcontracted were established, how the areas to be subcontracted to small, small disadvantaged, and women-owned small business concerns were determined, and how small, small disadvantaged, and women-owned small business concerns capabilities were determined, to include identification of source lists utilized in making those determination).

(f) Indirect and over head costs [\_\_\_\_\_] have [\_\_\_\_\_] have not been included in the goals specified in 1(a) and 1(b).

(g) If “have” is checked, explain the method used in determining the proportionate share of indirect and overhead cost to be allocated as subcontracts to small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

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2. The following individual will administer the subcontracting program:

Name: \_\_\_\_\_

Address & Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

This individual's specific duties, as they relate to the firm's subcontracting program are as follows:

General overall responsibility for this company's Small Business Program, the development, preparation and execution of individual subcontracting plans and for monitoring performance relative to contractual subcontracting requirements contained in this plan, including but not limited to:

- (a) Developing and maintaining bidders lists of small, small disadvantaged, and women-owned small business concerns from all possible sources.
- (b) Ensuring that procurement packages are structured to permit small, small disadvantaged, and women-owned business concerns to participate to the maximum extent possible.
- (c) Assuring inclusion of small, small disadvantaged, and women-owned business concerns in all solicitations for products or services which they are capable of providing.
- (d) Reviewing solicitations to remove statements, clauses, etc., which may tend to restrict or prohibit small, small disadvantaged, and women-owned business participation.
- (e) Ensuring periodic rotation of potential subcontractors on bidders lists.
- (f) Ensuring that the bid proposal review board documents its reasons for rejecting low bids submitted by small, small disadvantaged, and women-owned business concerns.
- (g) Ensuring the establishment and maintenance of records of solicitations and subcontract award activity.
- (h) Attending or arranging for attendance of company counselors at Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs, etc.
- (i) Conducting or arranging for conduct of motivational training for purchasing personnel pursuant to the intent of P.O. 95-507.

(j) Monitoring attainment of proposed goals.

(k) Preparing and submitting periodic subcontracting reports required.

(l) Coordinating contractor's activities during the conduct of compliance reviews by Federal Agencies.

(m) Coordinating the conduct of contractor's activities involving its small, small disadvantaged, and women-owned business subcontracting program.

(n) Additions to (or deletions from) the duties specified above are as follows:

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3. The following efforts will be taken to assure that small, small disadvantaged, and women-owned business concerns will have an equitable opportunity to compete for subcontracts:

(a) Outreach efforts will be made as follows:

(i) Contacts with minority and small business trade associations

(ii) Contacts with business development organizations

(iii) Attendance at small and minority business procurement conferences

(iv) Sources will be requested from SBA's PASS system.

(b) The following internal efforts will be made to guide and encourage buyers:

(i) Workshops, seminars and training programs will be conducted

(ii) Activities will be monitored to evaluate compliance with this subcontracting plan.

(c) Small, small disadvantaged, and women-owned business concern source lists, guides and other data identifying small, small disadvantaged, and women-owned business concerns will be maintained and utilized by buyers in soliciting subcontracts.

(d) Additions to (or deletions from) the above listed efforts are as follows:

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4. The bidder (contractor) agrees that the clause entitled Utilization of Small, Small Disadvantaged, and Women-Owned Small Business Concerns will be included in all subcontracts which offer further subcontracting opportunities, and all subcontractors except small business concerns who receive subcontracts in excess of \$500,000 will be required to adopt and comply with a subcontracting plan similar to this one. Such plans will be reviewed by comparing them with the provisions of Public Law 95-507, and assuring that all minimum requirements of an acceptable subcontracting plan have been satisfied. The acceptability of percentage goals shall be determined on a case-by-case basis depending on the supplies/services involved, the availability of potential small, small disadvantaged, and women-owned subcontractors, and prior experience. Once approved and implemented, plans will be monitored through the submission of periodic reports, and/or, as time and availability of funds permit, periodic visits to subcontractors facilities to review applicable records and subcontracting program progress.

5. The bidder (contractor) agrees to submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small business Administration in order to determine the extent of compliance by the bidder with the subcontracting plan and with the clause entitled Utilization of Small, Small Disadvantaged, and Women-Owned Small Business Concerns, contained in the contract.

6. The bidder (contractor) agrees that he will maintain at least the following types of records to document compliance with this subcontracting plan:

(a) Small, Small Disadvantaged, and Women-Owned Business concern source lists, guides and other data identifying SB/SDB/WO vendors.

(b) Organizations contacted for small, small disadvantaged, and women-owned business sources.

(c) On a contract-by-contract basis, records on all subcontract solicitations over \$100,000, indicating on each solicitation (1) whether small business concerns were solicited, and if not, who not; (2) whether small disadvantaged business concerns were solicited, and if not, why not; (3) whether women-owned business concerns were solicited and if not, why not; and (4) reasons for the failure of solicited small, small disadvantaged, or women-owned business concerns to receive the subcontract award.

(d) Records to support other outreach efforts: Contacts with Minority and Small Business Trade Associations, etc. Attendance at small and minority business procurement conferences and trade fairs.

(e) Records to support internal activities to guide and encourage buyers: Workshops, seminars, training programs, etc. Monitoring activities to evaluate compliance.

(f) On a contract-by-contract basis, records to support subcontract award data to include name and address or subcontractor .

(g) Records to be maintained in addition to the above are as follows:

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Signed: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Plan Accepted By: \_\_\_\_\_  
Contracting Officer

Date: \_\_\_\_\_

NOTE TO CONTRACTING OFFICER: Upon incorporation of a plan into the contract, indicate herein the estimated dollar value of the contract:

\$ \_\_\_\_\_.

## SECTION 00700 Contract Clauses

### CLAUSES INCORPORATED BY FULL TEXT

#### 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed \$100,000.

#### 52.203-7 ANTI-KICKBACK PROCEDURES. (JUL 1995)

(a) Definitions.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor," as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from -

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold, from sums owed a subcontractor under the prime contract, the amount of any kickback. The Contracting Officer may order the monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.



(5) The Contractor agrees to incorporate the substance of this clause, including this subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

#### 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27 (a) or (b) of the Act for the purpose of either--  
-

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsections 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

#### 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that

there was a violation of subsection 27 (a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.

(b) The price or fee reduction referred to in paragraph (a) of this clause shall be--

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract;

(3) For cost-plus-award-fee contracts--

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may--

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

(5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.

(c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)

(a) Definitions.

"Agency," as used in this clause, means executive agency as defined in 2.101.

"Covered Federal action," as used in this clause, means any of the following Federal actions:

- (1) The awarding of any Federal contract.
- (2) The making of any Federal grant.
- (3) The making of any Federal loan.
- (4) The entering into of any cooperative agreement.
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

"Indian tribe" and "tribal organization," as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan Natives.

"Influencing or attempting to influence," as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government," as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency," as used in this clause, includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.
- (2) A member of the uniformed services, as defined in subsection 101(3), title 37, United States Code.

(3) A special Government employee, as defined in section 202, title 18, United States Code.

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, United States Code, appendix 2.

"Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation," as used in this clause, means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment," as used in this clause, means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient," as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed," as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State," as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibitions.

(1) Section 1352 of title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering

into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(2) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

(3) The prohibitions of the Act do not apply under the following conditions:

(i) Agency and legislative liaison by own employees.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(B) For purposes of subdivision (b)(3)(i)(A) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action--

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

(E) Only those services expressly authorized by subdivision (b)(3)(i)(A) of this clause are permitted under this clause.

(ii) Professional and technical services.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of--

(1) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(2) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(D) Only those services expressly authorized by subdivisions (b)(3)(ii)(A)(1) and (2) of this clause are permitted under this clause.

(E) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(c) Disclosure.

(1) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph (b)(1) of this clause, if paid for with appropriated funds.

(2) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph (c)(1) of this clause. An event that materially affects the accuracy of the information reported includes--

(i) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(ii) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(iii) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(3) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

(4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(d) Agreement. The Contractor agrees not to make any payment prohibited by this clause.

(e) Penalties.

(1) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause

shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(f) Cost allowability. Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

#### 52.204-4 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (JUN 1996)

(a) In accordance with Executive Order 12873, dated October 20, 1993, as amended by Executive Order 12995, dated March 25, 1996, the Offeror/Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed/copied double-sided on recycled paper that has at least 20 percent postconsumer material.

(b) The 20 percent standard applies to high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, and other uncoated printed and writing paper, such as writing and office paper, book paper, cotton fiber paper, and cover stock. An alternative to meeting the 20 percent postconsumer material standard is 50 percent recovered material content of certain industrial by-products.

#### 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT. (JUL 1995)

(a) The Government suspends or debar Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of the \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principles, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

(1) The name of the subcontractor.



- (2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
- (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
- (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

#### 52.211-13 TIME EXTENSIONS (APR 1984)

Notwithstanding any other provisions of this contract, it is mutually understood that the time extensions for changes in the work will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements so delayed and that the remaining contract completion dates for all other portions of the work will not be altered and may further provide for an equitable readjustment of liquidated damages under the new completion schedule.

#### 52.211-18 VARIATION IN ESTIMATED QUANTITY (APR 1984)

If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contracting Officer within 10 days from the beginning of the delay, or within such further period as may be granted by the Contracting Officer before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgement of the Contracting Officer, is justified.

#### 52.214-26 AUDIT AND RECORDS--SEALED BIDDING. (OCT 1997)

- (a) As used in this clause, records includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with the pricing of any modification to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to--

- (1) The proposal for the modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the modification; or
- (4) Performance of the modification.

**52.214-27 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS - SEALED BIDDING. (OCT 1997)**

(a) This clause shall become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for the submission of cost or pricing data at FAR 15.403-4(a)(1), except that this clause does not apply to a modification if an exception under FAR 15.403-1(b) applies.

- (1) Based on adequate price competition;
- (2) Based on established catalog or market prices of commercial items sold in substantial quantities to the general public; or
- (3) Set by law or regulation.

(b) If any price, including profit, negotiated in connection with any modification under this clause, was increased by any significant amount because

- (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;
- (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data; or
- (3) any of these parties furnished data of any description that were not accurate, the price shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) above.

(c) Any reduction in the contract price under paragraph (b) above due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which:

(1) the actual subcontract; or

(2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(d) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made:

(1) the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted;

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer;

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract; or

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2) Except as prohibited by subdivision (d)(2)(ii) of this clause:

(i) an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if:

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

(ii) An offset shall not be allowed if:

(A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; or (B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

(e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid:

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data which were incomplete, inaccurate, or noncurrent.

**52.214-28 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS - SEALED BIDDING. (OCT 1997)**

(a) The requirements of paragraphs (b) and (c) of this clause shall:

(1) become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at (FAR) 48 CFR 15.403-4(a)(1); and

(2) be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modifications involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1(b) applies.

(1) Based on adequate price competition;

(2) Based on established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(3) Set by law or regulation.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in subsection 15.406-2 of the Federal Acquisition Regulation that, to the best of its knowledge and belief, the data submitted under paragraph (b) above were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that, when entered into, exceeds the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1).

#### 52.214-29 ORDER OF PRECEDENCE--SEALED BIDDING (JAN 1986)

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order: (a) the Schedule (excluding the specifications); (b) representations and other instructions; (c) contract clauses; (d) other documents, exhibits, and attachments; and (e) the specifications.

#### 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JAN 1999)

(a) Definition. HUBZone small business concern, as used in this clause, means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

(b) Evaluation preference. (1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except--

(i) Offers from HUBZone small business concerns that have not waived the evaluation preference;

(ii) Otherwise successful offers from small business concerns;

(iii) Otherwise successful offers of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is exceeded (see 25.402 of the Federal Acquisition Regulation (FAR)); and

(iv) Otherwise successful offers where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government.

(2) The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.

(3) A concern that is both a HUBZone small business concern and a small disadvantaged business concern will receive the benefit of both the HUBZone small business price evaluation preference and the small disadvantaged business price evaluation adjustment (see FAR clause 52.219-23). Each applicable price evaluation preference or adjustment shall be calculated independently against an offeror's base offer.

These individual preference amounts shall be added together to arrive at the total evaluated price for that offer.

(c) Waiver of evaluation preference. A HUBZone small business concern may elect to waive the evaluation preference, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply if the offeror has waived the evaluation preference.

\_\_\_ Offeror elects to waive the evaluation preference.

(d) Agreement. A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;

(2) Supplies (other than procurement from a nonmanufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;

(3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be will be spent on the concern's employees or the employees of other HUBZone small business concerns; or

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns.

(e) A HUBZone joint venture agrees that in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause will be performed by the HUBZone small business participant or participants.

(f) A HUBZone small business concern nonmanufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business manufacturer concerns. This paragraph does not apply in connection with construction or service contracts.

#### 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 1999)

(a) It is the policy of the United States that small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime

contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) Definitions. As used in this contract (1) Small business concern means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) HUBZone small business concern means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

(3) Small business concern owned and controlled by socially and economically disadvantaged individuals and small disadvantaged business concern mean a small business concern that represents, as part of its offer that--

(i) It has received certification as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B;

(ii) No material change in disadvantaged ownership and control has occurred since its certification;

(iii) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(iv) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

(4) Small business concern owned and controlled by women means a small business concern--

(i) Which is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a HUBZone small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women.

52.219-9 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (OCT 1999)--ALTERNATE I (JAN 1999).

(a) This clause does not apply to small business concerns.

(b) "Commercial product," as used in this clause, means a product in regular production that is sold in substantial quantities to the general public and/or industry at established catalog or market prices. It also means a product which, in the opinion of the Contracting Officer, differs only insignificantly from the Contractor's commercial product.

"Subcontract," as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The apparent low bidder, upon request by the Contracting Officer, shall submit a subcontracting plan, where applicable, that separately addresses subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the bidder is submitting an individual contract plan, the plan must separately address subcontracting with small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be submitted within the time specified by the Contracting Officer. Failure to submit the subcontracting plan shall make the bidder ineligible for the award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted;

(ii) Total dollars planned to be subcontracted to small business concerns;

(iii) Total dollars planned to be subcontracted to HUBZone small business concerns;

(iv) Total dollars planned to be subcontracted to small disadvantaged business concerns; and



(v) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to--

(i) Small business concerns;

(ii) HUBZone small business concerns;

(iii) Small disadvantaged business concerns; and

(iv) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in PRO-Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, HUBZone, small disadvantaged and women-owned small business source list. Use of PRO-Net as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

(i) Small business concerns;

(ii) HUBZone small business concerns;

(iii) Small disadvantaged business concerns; and

(iv) Women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business, HUBZone small business, small disadvantaged and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility) to adopt a plan similar to the plan agreed to by the offeror.

(10) Assurances that the offeror will (i) cooperate in any studies or surveys as may be required, (ii) submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan, (iii) submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the instructions on the forms or as provided in agency regulations and in paragraph (j) of this clause; and (iv) ensure that its subcontractors agree to submit Standard Forms 294 and 295.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated)

(i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating--

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether HUBZone small business concerns were solicited and, if not, why not;

(C) Whether small disadvantaged business concerns were solicited and, if not, why not;

(D) Whether women-owned small business concerns were solicited and, if not, why not; and

(E) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact--

(A) Trade associations;

(B) Business development organizations; and

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources.

(v) Records of internal guidance and encouragement provided to buyers through--

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all ``make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master subcontracting plan on a plant or division-wide basis which contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided, (1) the master plan has been approved, (2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and (3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g)(1) If a commercial product is offered, the subcontracting plan required by this clause may relate to the offeror's production generally, for both commercial and noncommercial products, rather than solely to the Government contract. In these cases, the offeror shall, with the concurrence of the Contracting Officer, submit one company-wide or division-wide annual plan.

(2) The annual plan shall be reviewed for approval by the agency awarding the offeror its first prime contract requiring a subcontracting plan during the fiscal year, or by an agency satisfactory to the Contracting Officer.

(3) The approved plan shall remain in effect during the offeror's fiscal year for all of the offeror's commercial products.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization Of Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

(j) The Contractor shall submit the following reports:

(1) Standard Form 294, Subcontracting Report for Individual Contracts. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.

(2) Standard Form 295, Summary Subcontract Report. This report encompasses all the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by Standard Industrial Classification (SIC) Major Group. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant SIC Major Group and report all awards to that subcontractor under its predominant SIC Major Group.

#### 52.219-16 LIQUIDATED DAMAGES-SUBCONTRACTING PLAN (JAN 1999)

(a) Failure to make a good faith effort to comply with the subcontracting plan, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

#### 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

#### 52.222-3 CONVICT LABOR (AUG 1996)

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment which has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

- (a)(1) The worker is paid or is in an approved work training program on a voluntary basis;
  - (2) Representatives of local union central bodies or similar labor union organizations have been consulted;
  - (3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and
  - (4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and
- (b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION. (JUL 1995)

(a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics (see Federal Acquisition Regulation (FAR) 22.300) shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanics employed in violation of the provisions set forth in paragraph (a) of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) Payrolls and basic records. (1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of contract work and shall preserve them for a period of 3 years from the completion of the contract for all laborers and mechanics working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing in this paragraph shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The records to be maintained under paragraph (d)(1) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit such representatives to interview employees during working hours on the job.

(e) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts exceeding \$100,000 the provisions set forth in paragraphs (a) through (e) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause.

#### 52.222-6 DAVIS-BACON ACT (FEB 1995)

(a) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(b)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.



(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (b)(2) and (b)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(c) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

#### 52.222-7 WITHHOLDING OF FUNDS (FEB 1988)

The Contracting Officer shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the

Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other Federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

#### 52.222-8 PAYROLLS AND BASIC RECORDS (FEB 1988)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify--

- (i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;
  - (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and
  - (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this clause.
- (4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 52.222-9 APPRENTICES AND TRAINEES (FEB 1988)

(a) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a

payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

#### 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

#### 52.222-11 SUBCONTRACTS (LABOR STANDARDS (FEB 1988)

(a) The Contractor or subcontractor shall insert in any subcontracts the clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act-Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds, Subcontracts (Labor Standards), Contract Termination-Debarment, Disputes Concerning Labor Standards, Compliance with Davis-Bacon and Related Act Regulations, and Certification of Eligibility, and such other clauses as the Contracting Officer may, by appropriate instructions, require, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all the contract clauses cited in this paragraph.

(b)(1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Statement and Acknowledgment Form (SF 1413) for each subcontract, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (a) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

#### 52.222-12 CONTRACT TERMINATION--DEBARMENT (FEB 1988)

A breach of the contract clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act--Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS  
(FEB 1988)

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this contract.

52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)

(a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) Segregated facilities, as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities

are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

## 52.222-26 EQUAL OPPORTUNITY (FEB 1999)

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs (b)(1) through (11) of this clause. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performing this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraphs (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

#### 52.222-27 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999)

(a) Definitions. "Covered area," as used in this clause, means the geographical area described in the solicitation for this contract.



"Deputy Assistant Secretary," as used in this clause, means Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, or a designee.

"Employer's identification number," as used in this clause, means the Federal Social Security number used on the employer's quarterly federal tax return, U.S. Treasury Department Form 941.

"Minority," as used in this clause, means--

(1) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);

(3) Black (all persons having origins in any of the black African racial groups not of Hispanic origin); and

(4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).

(b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of \$10,000 shall include this clause and the Notice containing the goals for minority and female participation stated in the solicitation for this contract.

(c) If the Contractor is participating in a Hometown Plan (41 CFR 60-4) approved by the U.S. Department of Labor in a covered area, either individually or through an association, its affirmative action obligations on all work in the plan area (including goals) shall comply with the plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate participation in, and compliance with, the provisions of the plan. Each Contractor or subcontractor participating in an approved plan is also required to comply with its obligations under the Equal Opportunity clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good-faith performance by other Contractors or subcontractors toward a goal in an approved plan does not excuse any Contractor's or subcontractor's failure to make good-faith efforts to achieve the plan's goals.

(d) The Contractor shall implement the affirmative action procedures in subparagraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.

(e) Neither the terms and conditions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor's obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.

(f) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

(g) The Contractor shall take affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with this clause shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and implement affirmative action steps at least as extensive as the following:

(1) Ensure a working environment free of harassment, intimidation, and coercion at all sites and in all facilities where the Contractor's employees are assigned to work. The Contractor, if possible, will assign two or more women to each construction project. The Contractor shall ensure that foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at these sites or facilities.

(2) Establish and maintain a current list of sources for minority and female recruitment. Provide written notification to minority and female recruitment sources and community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Establish and maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant, referrals of minorities or females from unions, recruitment sources, or community organizations, and the action taken with respect to each individual. If an individual was sent to the union hiring hall for referral and not referred back to the Contractor by the union or, if referred back, not employed by the Contractor, this shall be documented in the file, along with whatever additional actions the Contractor may have taken.

(4) Immediately notify the Deputy Assistant Secretary when the union or unions with which the Contractor has a collective bargaining agreement has not referred back to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these

programs to the sources compiled under subparagraph (g)(2) of this clause.

(6) Disseminate the Contractor's equal employment policy by--

(i) Providing notice of the policy to unions and to training, recruitment, and outreach programs, and requesting their cooperation in assisting the Contractor in meeting its contract obligations;

(ii) Including the policy in any policy manual and in collective bargaining agreements;

(iii) Publicizing the policy in the company newspaper, annual report, etc.;

(iv) Reviewing the policy with all management personnel and with all minority and female employees at least once a year; and

(v) Posting the policy on bulletin boards accessible to employees at each location where construction work is performed.

(7) Review, at least annually, the Contractor's equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct review of this policy with all on-site supervisory personnel before initiating construction work at a job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the Contractor's equal employment policy externally by including it in any advertising in the news media, specifically including minority and female news media. Provide written notification to, and discuss this policy with, other Contractors and subcontractors with which the Contractor does or anticipates doing business.

(9) Direct recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than 1 month before the date for acceptance of applications for apprenticeship or training by any recruitment source, send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit minority persons and women. Where reasonable, provide after-school, summer, and vacation employment to minority and female youth both on the site and in other areas of the Contractor's workforce.

(11) Validate all tests and other selection requirements where required under 41 CFR 60-3.

(12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities. Encourage these employees to seek or to prepare for, through appropriate training, etc., opportunities for promotion.

(13) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the Contractor's obligations under this contract are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user rest rooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.

(15) Maintain a record of solicitations for subcontracts for minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's equal employment policy and affirmative action obligations.

(h) The Contractor is encouraged to participate in voluntary associations that may assist in fulfilling one or more of the affirmative action obligations contained in subparagraphs (g)(1) through (16) of this clause. The efforts of a contractor association, joint contractor-union, contractor-community, or similar group of which the contractor is a member and participant may be asserted as fulfilling one or more of its obligations under subparagraphs (g)(1) through (16) of this clause, provided the Contractor--

(1) Actively participates in the group;

(2) Makes every effort to ensure that the group has a positive impact on the employment of minorities and women in the industry;

(3) Ensures that concrete benefits of the program are reflected in the Contractor's minority and female workforce participation;

(4) Makes a good-faith effort to meet its individual goals and timetables; and

(5) Can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

(i) A single goal for minorities and a separate single goal for women shall be established. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of Executive Order 11246, as amended, if a particular group is employed in a substantially disparate manner.

(j) The Contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts under Executive Order 11246, as amended.

(l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination, and cancellation of existing subcontracts, as may be imposed or ordered under Executive Order 11246, as amended, and its implementing regulations, by the OFCCP. Any failure to carry out these sanctions and penalties as ordered shall be a violation of this clause and Executive Order 11246, as amended.

(m) The Contractor in fulfilling its obligations under this clause shall implement affirmative action procedures at least as extensive as those prescribed in paragraph (g) of this clause, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of Executive Order 11246, as amended, the implementing regulations, or this clause, the Deputy Assistant Secretary shall take action as prescribed in 41 CFR 60-4.8.

(n) The Contractor shall designate a responsible official to--

(1) Monitor all employment-related activity to ensure that the Contractor's equal employment policy is being carried out;

(2) Submit reports as may be required by the Government; and

(3) Keep records that shall at least include for each employee the name, address, telephone number, construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.

Nothing contained herein shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

#### 52.222-35 AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (APR 1998)

(a) ) Definitions. As used in this clause--

All employment openings includes all positions except executive and top management, those positions that will be filled from within the contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment.

Appropriate office of the State employment service system means the local office of the Federal-State national system of public employment offices with assigned responsibility to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

Positions that will be filled from within the Contractor's organization means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings that the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

Veteran of the Vietnam era means a person who--

(1) Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(2) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

(b) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a disabled veteran or a veteran of the Vietnam era. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans' status in all employment practices such as--

(i) Employment;

(ii) Upgrading;

(iii) Demotion or transfer;

(iv) Recruitment;

(v) Advertising;

(vi) Layoff or termination;

(vii) Rates of pay or other forms of compensation; and

(viii) Selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(c) Listing openings. (1) The Contractor agrees to list all employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

(2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their employment openings with the appropriate office of the State employment service.

(3) The listing of employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(e) Postings. (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary), and provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified disabled veterans and veterans of the Vietnam Era.

(f) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(g) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

#### 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)

(a) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as--

- (i) Recruitment, advertising, and job application procedures;
  - (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
  - (iii) Rates of pay or any other form of compensation and changes in compensation;
  - (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
  - (v) Leaves of absence, sick leave, or any other leave;
  - (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
  - (vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
  - (viii) Activities sponsored by the Contractor, including social or recreational programs; and
  - (ix) Any other term, condition, or privilege of employment.
- (2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.



(b) Postings. (1) The Contractor agrees to post employment notices stating--

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and

(ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

#### 52.222-37 EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)

(a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on--

(1) The number of disabled veterans and the number of veterans of the Vietnam era in the workforce of the contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of that total, the number of disabled veterans, and the number of veterans of the Vietnam era.

(b) The above items shall be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS-100."

(c) Reports shall be submitted no later than September 30 of each year beginning September 30, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date: (1) As of the end of any pay period during the period January through March 1st of the year the report is due, or (2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that the information is voluntarily provided; that the information will be kept confidential; that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary.

#### 52.223-6 DRUG-FREE WORKPLACE (JAN 1997)

(a) Definitions. As used in this clause --

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work

under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall-- within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration--

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about--

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will--

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

#### 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 1996)

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023(a) and (g)), and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106). The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(b) A Contractor owned or operated facility used in the performance of this contract is exempt from the requirement to file an annual Form R if--

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

(2) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

(3) The facility does not meet the reporting thresholds of toxic chemicals established under of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(4) The facility does not fall within Standard Industrial Classification Code (SIC) designations 20 through 39 as set forth in section 19.102 of the Federal Acquisition Regulation (FAR); or

(5) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (b) of this clause, and after award of the contract circumstances change so that any of its owned or operated facilities used in the performance of this contract is no longer exempt--

(1) The Contractor shall notify the Contracting Officer; and

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall (i) submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and (ii) continue to file the annual Form R for the life of the contract for such facility.

(d) The Contracting Officer may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements.

(e) Except for acquisitions of commercial items, as defined in FAR Part 2, the Contractor shall--

(1) For competitive subcontracts expected to exceed \$100,000 (including all options), include a solicitation provision substantially the same as the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting; and

(2) Include in any resultant subcontract exceeding \$100,000 (including all options), the substance of this clause, except this paragraph (e).

#### 52.225-9 BUY AMERICAN ACT--BALANCE OF PAYMENTS PROGRAM— CONSTRUCTION MATERIALS (FEB 2000)

(a) Definitions. As used in this clause--

Component means any article, material, or supply incorporated directly into construction materials.

Construction material means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to

the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means--

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

Domestic construction material means--

- (1) An unmanufactured construction material mined or produced in the United States; or
- (2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

Foreign construction material means a construction material other than a domestic construction material.

United States means the 50 States and the District of Columbia, U.S. territories and possessions, Puerto Rico, the Northern Mariana Islands, and any other place subject to U.S. jurisdiction, but does not include leased bases.

(b) Domestic preference. (1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) and the Balance of Payments Program by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to the construction material or components listed by the Government as follows: NONE.

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6

percent. For determination of unreasonable cost under the Balance of Payments Program, the Contracting Officer will use a factor of 50 percent;

(ii) The application of the restriction of the Buy American Act or Balance of Payments Program to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American Act or Balance of Payments Program. (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including--

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American Act or Balance of Payments Program applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of

the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American Act or Balance of Payments Program applies, use of foreign construction material is noncompliant with the Buy American Act or Balance of Payments Program.

(d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) \1\
Item 1			
Foreign construction material....			
Domestic construction material...			
Item 2			
Foreign construction material....			
Domestic construction material...			

Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry

certificate is issued).

List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral,

attach summary.

Include other applicable supporting information.

**52.225-10 NOTICE OF BUY AMERICAN ACT/BALANCE OF PAYMENTS PROGRAM REQUIREMENT--CONSTRUCTION MATERIALS (FEB 2000)**

(a) Definitions. Construction material, domestic construction material, and foreign construction material, as used in this provision, are defined in the clause of this solicitation entitled ``Buy American Act--Balance of Payments Program--Construction Materials" (Federal Acquisition Regulation (FAR) clause 52.225-9).

(b) Requests for determinations of inapplicability. An offeror requesting a determination regarding the inapplicability of the Buy American Act or Balance of Payments Program should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225-9 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act or Balance of



Payments Program before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) Evaluation of offers. (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act or Balance of Payments Program, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR 52.225-9.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) Alternate offers.

(1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR 52.225-9, the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR 52.225-9 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR 52.225-9 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested--

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

#### 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (FEB 2000)

(a) The Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States under regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries are Cuba, Iran, Iraq, Libya, North Korea, and Sudan.

(b) The Contractor shall not acquire for use in the performance of this contract any supplies or services from entities controlled by the government of Iraq.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

#### 52.226-1 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (FEB 2000)

(a) For Department of Defense contracts, this clause applies only if the contract includes a subcontracting plan incorporated under the terms of the clause at 52.219-9, Small Business Subcontracting Plan. It does not apply to contracts awarded based on a subcontracting plan submitted and approved under paragraph (g) of the clause at 52.219-9.

(b) Definitions. As used in this clause:

"Indian" means any person who is a member of any Indian tribe, band, group, pueblo or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any "Native" as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

"Indian organization" means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., chapter 17.

"Indian-owned economic enterprise" means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership shall constitute not less than 51 percent of the enterprise.

"Indian tribe" means any Indian tribe, band, group, pueblo or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1542(c).

"Interested party" means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(c) The Contractor agrees to use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason

to question that status. In the event of a challenge to the representation of a subcontractor, the Contracting Officer shall refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW, MS-334A-SIB, Washington, DC 20245. The BIA will determine the eligibility and notify the Contracting Officer. The 5 percent incentive payment will not be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

(i) The estimated cost of a cost-type contract.

(ii) The target cost of a cost-plus-incentive-fee prime contract.

(iii) The target cost and ceiling price of a fixed-price incentive prime contract.

(iv) The price of a firm-fixed-price prime contract.

(3) The amount of the equitable adjustment to the prime contract shall be 5 percent of the estimated cost, target cost or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(d) T The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor. The Contracting Officer will seek funding in accordance with agency procedures.

#### 52.227-1 AUTHORIZATION AND CONSENT (JUL 1995)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold (however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.)

#### 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the simplified acquisition threshold at (FAR) 2.101 to exceed the dollar amount set forth in 13.000 of the Federal Acquisition Regulation (FAR).

#### 52.227-4 PATENT INDEMNITY--CONSTRUCTION CONTRACTS (APR 1984)

Except as otherwise provided, the Contractor agrees to indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of performing this contract or out of the use or disposal by or for the account of the Government of supplies furnished or work performed under this contract.

#### 52.228-1 BID GUARANTEE (SEP 1996)

(a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, e.g., bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds, (1) to unsuccessful bidders as soon as practicable after the opening of bids, and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.-

(c) The amount of the bid guarantee shall be 20 percent of the bid price or \$\_n/a\_\_\_\_\_, whichever is less.-

(d) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or furnish executed bond(s) within 10 days after receipt of the forms by the bidder, the Contracting Officer may terminate the contract for default.-

(e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference.

#### 52.228-2 ADDITIONAL BOND SECURITY (OCT 1997)

The Contractor shall promptly furnish additional security required to protect the Government and persons supplying labor or materials under this contract if--

(a) Any surety upon any bond, or issuing financial institution for other security, furnished with this contract becomes unacceptable to the Government.

(b) Any surety fails to furnish reports on its financial condition as required by the Government;

(c) The contract price is increased so that the penal sum of any bond becomes inadequate in the opinion of the Contracting Officer; or

(d) An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the Contractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the Contracting officer has the right to immediately draw on the ILC.

#### 52.228-5 INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or

elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe, or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

#### 52.228-11 PLEDGES OF ASSETS (FEB 1992)

(a) Offerors shall obtain from each person acting as an individual surety on a bid guarantee, a performance bond, or a payment bond--

(1) Pledge of assets; and

(2) Standard Form 28, Affidavit of Individual Surety.

(b) Pledges of assets from each person acting as an individual surety shall be in the form of--

(1) Evidence of an escrow account containing cash, certificates of deposit, commercial or Government securities, or other assets described in FAR 28.203-2 (except see 28.203-2(b)(2) with respect to Government securities held in book entry form) and/or;

(2) A recorded lien on real estate. The offeror will be required to provide--

(i) Evidence of title in the form of a certificate of title prepared by a title insurance company approved by the United States Department of Justice. This title evidence must show fee simple title vested in the surety along with any concurrent owners; whether any real estate taxes are due and payable; and any recorded encumbrances against the property, including the lien filed in favor of the Government as required by FAR 28.203-3(d);

(ii) Evidence of the amount due under any encumbrance shown in the evidence of title;

(iii) A copy of the current real estate tax assessment of the property or a current appraisal dated no earlier than 6 months prior to the date of the bond, prepared by a professional appraiser who certifies that the appraisal has been conducted in accordance with the generally accepted appraisal standards as reflected in the Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Foundation.

52.228-15 PERFORMANCE AND PAYMENT BONDS--CONSTRUCTION (SEP 1996)-

(a) Definitions. As used in this clause--

Contract price means the award price of the contract or, for requirements contracts, the price payable for the estimated quantity; or for indefinite-delivery type contracts, the price payable for the specified minimum quantity.

(b) Unless the resulting contract price is \$100,000 or less, the successful offeror shall be required to furnish performance and payment bonds to the Contracting Officer as follows:

(1) Performance Bonds (Standard Form 25): (i) The penal amount of performance bonds shall be 100 percent of the original contract price.

(ii) The Government may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

(iii) The Government may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(2) Payment Bonds (Standard Form 25-A):

(i) The penal amount of payment bonds shall equal--

(A) 50 percent of the contract price if the contract price is not more than \$1 million;

(B) 40 percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(C) \$2.5 million if the contract price is more than \$5 million.

(ii) If the original contract price is \$5 million or less, the Government may require additional protection if the contract price is increased. The penal amount of the total protection shall meet the requirement of subparagraph (b)(2)(i) of this clause.

(iii) The Government may secure additional protection by directing the Contractor to increase the penal sum of the existing bond or to obtain an additional bond.

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) The bonds shall be in the form of firm commitment, supported by corporate sureties whose

names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the Federal Register, or may be obtained from the U.S. Department of Treasury, Financial Management Service, Surety Bond Branch, 401 14th Street, NW., 2nd Floor, West Wing, Washington, DC 20227.

#### 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (JAN 1991)

(a) "Contract date," as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"All applicable Federal, State, and local taxes and duties," as used in this clause, means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"After-imposed Federal tax," as used in this clause, means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-relieved Federal tax," as used in this clause, means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.



(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

#### 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (MAY 1997)

(a) Payment of price. The Government shall pay the Contractor the contract price as provided in this contract.

(b) Progress payments. The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

(1) The Contractor's request for progress payments shall include the following substantiation:

(i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.

(ii) A listing of the amount included for work performed by each subcontractor under the contract.

(iii) A listing of the total amount of each subcontract under the contract.

(iv) A listing of the amounts previously paid to each such subcontractor under the contract.

(v) Additional supporting data in a form and detail required by the Contracting Officer.

(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if--

(i) Consideration is specifically authorized by this contract; and

(ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) Contractor certification. Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that--

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.

\_\_\_\_\_

(Name)

\_\_\_\_\_

(Title)

\_\_\_\_\_

(Date)

(d) Refund of unearned amounts. If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall--

(1) Notify the Contracting Officer of such performance deficiency; and

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until--

(i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or

(ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

(e) Retainage. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(f) Title, liability, and reservation of rights. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as--

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(g) Reimbursement for bond premiums. In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.

(h) Final payment. The Government shall pay the amount due the Contractor under this contract after--

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

(i) Limitation because of undefinitized work. Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract

actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(j) Interest computation on unearned amounts. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be--

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

#### 52.232-17 INTEREST (JUNE 1996)

(a) Except as otherwise provided in this contract under a Price Reduction for Defective Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid. reproduce, prepare derivative works, distribute copies to the public, and (b) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

## 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

## 52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (JUN 1997)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments. (1) Types of invoice payments. For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project:

(A) The due date for making such payments shall be 14 days after receipt of the payment request by the designated billing office. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date shall be the 14th day after the date of the Contractor's payment request, provided a proper payment request is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, shall be as specified in the contract or, if not specified, 30 days after approval for release to the Contractor by the Contracting Officer.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract):

(A) The due date for making such payments shall be either the 30th day after receipt by the designated billing office of a proper invoice from the Contractor, or the 30th day after Government acceptance of the work or services completed by the Contractor, whichever is later. If the designated billing office fails to annotate the invoice with the date of actual receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) On a final invoice where the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(2) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in subdivisions (a)(2)(i) through (a)(2)(ix) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice, with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(4) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., prompt payment discount terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified

in the event of a defective invoice.

(viii) For payments described in subdivision (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.

(ix) Any other information or documentation required by the contract.

(x) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(3) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) Computing penalty amount. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(2) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in subdivision (a)(1)(ii) of this clause, Government acceptance or approval shall be deemed to have occurred constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. In the event that actual acceptance or approval occurs within the constructive acceptance or approval period, the determination of an interest penalty shall be based on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days.

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(5) Prompt payment discounts. An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(6) Additional interest penalty. (i) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with subdivision (a)(6)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor--

(A) Is owed an interest penalty of \$1 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and



(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with subdivision (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that--

(1) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(2) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty, except--

(1) The additional penalty shall not exceed \$5,000;

(2) The additional penalty shall never be less than \$25; and

(3) No additional penalty is owed if the amount of the underlying interest penalty is less than \$1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(4)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(6)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) Contract financing payments. (1) Due dates for recurring financing payments. If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the [insert day as prescribed by Agency head; if not prescribed, insert 30th day] day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) Due dates for other contract financing. For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) Interest penalty not applicable. Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) Subcontract clause requirements. The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) Prompt payment for subcontractors. A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) Interest for subcontractors. An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause--

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) Subcontractor clause flowdown. A clause requiring each subcontractor to include a payment clause and an interest penalty clause conforming to the standards set forth in subparagraphs (c)(1) and (c)(2) of this clause in each of its subcontracts, and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) Subcontract clause interpretation. The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that--

(1) Retainage permitted. Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) Withholding permitted. Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) Withholding requirements. Permit such withholding without incurring any obligation to pay a late payment penalty if--

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) A copy of any notice issued by a Contractor pursuant to subdivision (d)(3)(i) of this clause has been furnished to the Contracting Officer.

(e) Subcontractor withholding procedures. If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall--

(1) Subcontractor notice. Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) Contracting Officer notice. Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to subparagraph (e)(1) of this clause;

(3) Subcontractor progress payment reduction. Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (e)(1) of this clause;

(4) Subsequent subcontractor payment. Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and--

(i) Make such payment within--

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under subdivision (e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) Notice to Contracting Officer. Notify the Contracting Officer upon--

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying--

(A) The amounts withheld under subparagraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) Interest to Government. Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until--

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under subdivision (e)(5)(i) of this clause.

(f) Third-party deficiency reports. (1) Withholding from subcontractor. If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a "second-tier subcontractor") a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under subparagraph (e)(6) of this clause--

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under subdivision (f)(1)(i) of this clause.

(2) Subsequent payment or interest charge. As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall--

(i) Pay the amount withheld under subdivision (f)(1)(ii) of this clause to such first-tier subcontractor; or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) Written notice of subcontractor withholding. A written notice of any withholding shall be issued to a subcontractor (with a copy to the Contracting Officer of any such notice issued by the Contractor), specifying--

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract; and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) Subcontractor payment entitlement. The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) Prime-subcontractor disputes. A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Preservation of prime-subcontractor rights. Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) Non-recourse for prime contractor interest penalty. The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the United States for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL  
CONTRACTOR REGISTRATION (MAY 1999)

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Contractor EFT arrangements. If the Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(f) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(g) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(h) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(i) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(j) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

## 52.233-1 DISPUTES. (DEC 1998)

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d)(2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)(i) The contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim -

(A) Exceeding \$100,000; or

(B) Regardless of the amount claimed, when using -

(1) Arbitration conducted pursuant to 5 U.S.C. 575-580; or

(2) Any other alternative means of dispute resolution (ADR) technique that the agency elects to handle in accordance with the Administrative Dispute Resolution Act (ADRA).

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.



(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the request.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in (FAR) 48 CFR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

#### 52.233-3 PROTEST AFTER AWARD (AUG. 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

## 52.236-2 DIFFERING SITE CONDITIONS (APR 1984)

As prescribed in 36.502, insert the following clause in solicitations and contracts when a fixed-price construction contract or a fixed-price dismantling, demolition, or removal of improvements contract is contemplated and the contract amount is expected to exceed the small purchase limitation. The Contracting Officer may insert the clause in solicitations and contracts when a fixed-price construction or a fixed-price contract for dismantling, demolition, or removal of improvements is contemplated and the contract amount is expected to be within the small purchase limitation.

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of

(1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or

(2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

#### 52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to

(1) conditions bearing upon transportation, disposal, handling, and storage of materials;

(2) the availability of labor, water, electric power, and roads;

(3) uncertainties of weather, river stages, tides, or similar physical conditions at the site;

(4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of

successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

#### 52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

#### 52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991)

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

#### 52.236-8 OTHER CONTRACTS (APR 1984)

The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Government employees.

#### 52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall

only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities

(1) at or near the work site, and

(2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

#### 52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984)

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

#### 52.236-11 USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)

(a) The Government shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or

corrected on those portions of the work that the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Government's possession or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

#### 52.236-12 CLEANING UP (APR 1984)

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

#### 52.236-13 ACCIDENT PREVENTION (NOV 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will

(1) safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;

(2) avoid interruptions of Government operations and delays in project completion dates; and

(3) control costs in the performance of this contract.

(b) For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall-

(1) Provide appropriate safety barricades, signs, and signal lights;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and

(3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

(c) If this contract is for construction or dismantling, demolition or removal of improvements

with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

#### 52.236-15 SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is

not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

#### 52.236-17 LAYOUT OF WORK (APR 1984)

The Contractor shall lay out its work from Government established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

#### 52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

#### 52.243-4 CHANGES (AUG 1987)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes--

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) In the Government-furnished facilities, equipment, materials, services, or site; or
- (4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating



- (1) the date, circumstances, and source of the order and
- (2) that the Contractor regards the order as a change order.
- (c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.
- (d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.
- (e) The Contractor must assert its right to an adjustment under this clause within 30 days after
  - (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.
- (f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

#### 52.242-13 BANKRUPTCY. (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

#### 52.246-12 INSPECTION OF CONSTRUCTION (AUG 1996)

(a) Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) Government inspections and tests are for the sole benefit of the Government and do not--

(1) Relieve the Contractor of responsibility for providing adequate quality control measures;

(2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;

(3) Constitute or imply acceptance; or

(4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) of this section.

(d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

(e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

(f) The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(g) If the Contractor does not promptly replace or correct rejected work, the Government may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.

(h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly

furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

#### 52.242-14 SUSPENSION OF WORK (APR 1984)

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract. (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

#### 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (OCT 1998)

(a) Definitions.

"Commercial item", as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions.

"Subcontract", as used in this clause, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) Notwithstanding any other clause of this contract, the Contractor is not required to include any FAR provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components:

(1) 52.222-26, Equal Opportunity (E.O. 11246);

(2) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212(a));

(3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793); and

(4) 52.247-64, Preference for Privately-Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241)(flow down not required for subcontracts awarded beginning May 1, 1996).

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

#### 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S. - FLAG COMMERCIAL VESSELS (JUN 1997)

(a) The Cargo Preference Act of 1954 (46 U.S.C. 1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessel are--

(1) Acquired for a U.S. Government agency account;

(2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;

(3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies; or

(4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the United States.

(b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) above, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(c)(1) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to both (i) the Contracting Officer, and (ii) the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590. Subcontractor bills of lading shall be submitted through the Prime Contractor.

(2) The Contractor shall furnish these bill of lading copies (i) within 20 working days of the date of loading for shipments originating in the United States, or (ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

(A) Sponsoring U.S. Government agency.

(B) Name of vessel.

(C) Vessel flag of registry.

(D) Date of loading.

(E) Port of loading.

(F) Port of final discharge.

(G) Description of commodity.

(H) Gross weight in pounds and cubic feet if available.

(I) Total ocean freight revenue in U.S. dollars.

(d) Except for contracts at or below the simplified acquisition threshold, the Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract.

(e) The requirement in paragraph (a) does not apply to--

(1) Contracts at or below the simplified acquisition threshold;

(2) Cargoes carried in vessels of the Panama Canal Commission or as required or authorized by law or treaty;

(3) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353); and

(4) Shipments of classified supplies when the classification prohibits the use of non-Government vessels.

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the Division of National Cargo, Office of Costs and Rates, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, Phone: 202-366-4610.

#### 52.249-10 DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if--

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include

(i) acts of God or of the public enemy,

(ii) acts of the Government in either its sovereign or contractual capacity,

(iii) acts of another Contractor in the performance of a contract with the Government,

(iv) fires,

(v) floods,

(vi) epidemics,

(vii) quarantine restrictions,

(viii) strikes,

(ix) freight embargoes,

(x) unusually severe weather, or delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

#### 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, provided there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(c) If the Contractor submits a computer generated version of a form that is different than the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

## 52.248-3 VALUE ENGINEERING--CONSTRUCTION (FEB 2000)

(a) General. The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any instant contract savings realized from accepted VECP's, in accordance with paragraph (f) below.

(b) Definitions. "Collateral costs," as used in this clause, means agency costs of operation, maintenance, logistic support, or Government-furnished property.

"Collateral savings," as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (h) below).

"Value engineering change proposal (VECP)" means a proposal that--

- (1) Requires a change to this, the instant contract, to implement; and
- (2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change--
  - (i) In deliverable end item quantities only; or
  - (ii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (7) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:



(1) A description of the difference between the existing contract requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for

(i) the affected portions of the existing contract requirement and

(ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) below.

(4) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the agency.

(6) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(7) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) Submission. The Contractor shall submit VECP's to the Resident Engineer at the worksite, with a copy to the Contracting Officer.

(e) Government action.

(1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.

If the VECP is not accepted, the Contracting Officer will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP,

even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) Sharing.

(1) Rates. The Government's share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by

(i) 45 percent for fixed-price contracts or

(ii) 75 percent for cost-reimbursement contracts.

(2) Payment. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to--

(i) Accept the VECP;

(ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and

(iii) Provide the Contractor's share of savings by adding the amount calculated to the contract price or fee.

(g) Collateral savings. If a VECP is accepted, the Contracting Officer will increase the instant contract amount by 20 percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer is the sole determiner of the amount of collateral savings.

(h) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$50,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) above, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(i) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering-- Construction clause of contract . . . . . , shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations." If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

#### 252.201-7000 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991)

(a) "Definition. Contracting officer's representative" means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the contracting officer to perform specific technical or administrative functions.

(b) If the Contracting Officer designates a contracting officer's representative (COR), the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the contracting officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract.

#### 252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (MAR 1999)

(a) *Definitions.* As used in this clause—

(1) "Arising out of a contract with the DoD" means any act in connection with—

(i) Attempting to obtain;

(ii) Obtaining, or

(iii) Performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense (DoD).

(2) "Conviction of fraud or any other felony" means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which sentence has been imposed.

(3) "Date of conviction" means the date judgment was entered against the individual.

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving--

- (1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;
- (2) On the board of directors of any DoD contractor or first-tier subcontractor;
- (3) As a consultant, agent, or representative for any DoD contractor or first-tier subcontractor; or
- (4) In any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

(d) 10 U.S.C. 2408 provides that a defense contractor or first-tier subcontractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly—

- (1) Employing a person under a prohibition specified in paragraph (b) of this clause; or
- (2) Allowing such a person to serve on the board of directors of the contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as—

- (1) Suspension or debarment;
- (2) Cancellation of the contract at no cost to the Government; or
- (3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify—

- (1) The person involved;
- (2) The nature of the conviction and resultant sentence or punishment imposed;
- (3) The reasons for the requested waiver; and
- (4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony

arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (202) 616-3507.

#### 252.204-7000 DISCLOSURE OF INFORMATION (DEC 1991)

(a) The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless--

(1) The Contracting Officer has given prior written approval; or

(2) The information is otherwise in the public domain before the date of release.

(b) Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Contracting Officer at least 45 days before the proposed date for release.

(c) The Contractor agrees to include a similar requirement in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor to the Contracting Officer.

#### 252.204-7004 REQUIRED CENTRAL CONTRACTOR REGISTRATION.(MAR 2000)

(a) Definitions.

As used in this clause--

(1) Central Contractor Registration (CCR database means the primary DoD repository for contractor information required for the conduct of business with DoD.

(2) Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) Registered in the CCR database means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(3) Lack of registration in the CCR database will make an offeror ineligible for award.

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at <http://www.ccr2000.com>.

#### 252.209-7003 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (MAR 1998)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 37 U.S.C. 4212(d) (i.e., the VETS-100 report required by Federal Acquisition Regulation clause 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era), it has submitted the most recent report required by 38 U.S.C. 4212(d).

#### 252.209-7004 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of \$25,000 with a firm, or subsidiary of a firm, that is identified, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

(b) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is identified, on the List of Parties

Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor notwithstanding its inclusion on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs.

252.219-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) (APR. 1996)

This clause supplements the Federal Acquisition Regulation 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, clause of this contract.

(a) *Definitions. Historically black colleges and universities*, as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

*Minority institutions*, as used in this clause, means institutions meeting the requirements of section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

(b) Except for company or division-wide commercial items subcontracting plans, the term *small disadvantaged business*, when used in the FAR 52.219-9 clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the FAR 52.219-9 clause when:

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally-owned corporation, and

(2) It meets the requirements of 10 U.S.C. 2323a.

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 46-48), may be counted toward the Contractor's small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protege Program established under Section 831 of Pub. L. 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded--

(f) The master plan approval referred to in paragraph (f) of the FAR 52.219-9 clause is approval by the Contractor's cognizant contract administration activity.

(g) In those subcontracting plans which specifically identify small, small disadvantaged, and women-owned small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

#### 252.223-7004 DRUG-FREE WORK FORCE (SEP 1988)

(a) Definitions.

(1) "Employee in a sensitive position," as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security; health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(2) "Illegal drugs," as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:



(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, and efficient use of Contractor resources, and the risks to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing--

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employees has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2..1 of subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11, 1988), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such times as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing program shall not apply to the extent that are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

## 252.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 1992)

(a) Definitions. As used in this clause--

(1) "Foreign person" means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

(2) "United States person" is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concerns, as determined under regulations of the President.

(b) Certification. By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec 2407(a) prohibits a United States person from taking.

#### 252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

When the allowability of costs under this contract is determined in accordance with part 31 of the Federal Acquisition Regulation (FAR), allowability shall also be determined in accordance with part 231 of the Defense FAR Supplement, in effect on the date of this contract.

#### 252.236-7000 MODIFICATION PROPOSALS - PRICE BREAKDOWN. (DEC 1991)

(a) The Contractor shall furnish a price breakdown, itemized as required and within the time specified by the Contracting Officer, with any proposal for a contract modification.

(b) The price breakdown --

(1) Must include sufficient detail to permit an analysis of profit, and of all costs for --

(i) Material;

(ii) Labor;

(iii) Equipment;

(iv) Subcontracts; and

(v) Overhead; and

(2) Must cover all work involved in the modification, whether the work was deleted, added, or changed.

(c) The Contractor shall provide similar price breakdowns to support any amounts claimed for subcontracts.

(d) The Contractor's proposal shall include a justification for any time extension proposed.

252.236-7004 PAYMENT FOR MOBILIZATION AND DEMOBILIZATION. (DEC 1991)

(a) The Government will pay all costs for the mobilization and demobilization of all of the Contractor's plant and equipment at the contract lump sum price for this item.

(1) 60 percent of the lump sum price upon completion of the contractor's mobilization at the work site.

(2) The remaining 40 percent upon completion of demobilization.

(b) The Contracting Officer may require the Contractor to furnish cost data to justify this portion of the bid if the Contracting Officer believes that the percentages in paragraphs (a) (1) and (2) of this clause do not bear a reasonable relation to the cost of the work in this contract.

(1) Failure to justify such price to the satisfaction of the Contracting Officer will result in payment, as determined by the Contracting Officer, of --

(i) Actual mobilization costs at completion of mobilization;

(ii) Actual demobilization costs at completion of demobilization; and

(iii) The remainder of this item in the final payment under this contract.

(2) The Contracting Officer's determination of the actual costs in paragraph (b)(1) of this clause is not subject to appeal.

252.236-7008 CONTRACT PRICES - BIDDING SCHEDULES. (DEC 1991)

(a) The Government's payment for the items listed in the Bidding Schedule shall constitute full compensation to the Contractor for --

(1) Furnishing all plant, labor, equipment, appliances, and materials; and

(2) Performing all operations required to complete the work in conformity with the drawings and specifications.

(b) The Contractor shall include in the prices for the items listed in the Bidding Schedule all costs for work in the specifications, whether or not specifically listed in the Bidding Schedule.

252.236-7002 OBSTRUCTION OF NAVIGABLE WATERWAYS. (DEC 1991)

(a) The Contractor shall --

(1) Promptly recover and remove any material, plant, machinery, or appliance which the contractor loses, dumps, throws overboard, sinks, or misplaces, and which, in the opinion of the Contracting Officer, may be dangerous to or obstruct navigation;

(2) Give immediate notice, with description and locations of any such obstructions, to the Contracting Officer; and

(3) When required by the Contracting Officer, mark or buoy such obstructions until the same are removed.

(b) The Contracting Officer may --

(1) Remove the obstructions by contract or otherwise should the Contractor refuse, neglect, or delay compliance with paragraph (a) of this clause; and

(2) Deduct the cost of removal from any monies due or to become due to the Contractor; or

(3) Recover the cost of removal under the Contractor's bond.

(c) The Contractor's liability for the removal of a vessel wrecked or sunk without fault or negligence is limited to that provided in sections 15, 19, and 20 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 410 et. seq.).

252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR part 31 and DFARS part 231, in effect on the date of this contract, apply.

252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998)

(a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.

(b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:

I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.

-----  
(Official's Name)

-----  
(Title)

(c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including--

(1) Cost or pricing data if required in accordance with subsection 15.403-4 of the Federal Acquisition Regulation (FAR); and

(2) Information other than cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if cost or pricing data are not required.

(d) The certification requirement in paragraph (b) of this clause does not apply to----

(1) Requests for routine contract payments; for example, requests for payment for accepted supplies and services, routine vouchers under a cost-reimbursement type contract, or progress payment invoices; or

(2) Final adjustment under an incentive provision of the contract.

#### 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAR 2000)

(a) Definitions. As used in this clause --

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

(2) "Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if-

(i) This contract is a construction contract; or

(ii) The supplies being transported are--

(A) Noncommercial items; or

(B) Commercial items that--

(1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it contracts for f.o.b. destination shipment);

(2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that --

- (1) U.S.-flag vessels are not available for timely shipment;
- (2) The freight charges are inordinately excessive or unreasonable; or
- (3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum --

- (1) Type, weight, and cube of cargo;
- (2) Required shipping date;
- (3) Special handling and discharge requirements;
- (4) Loading and discharge points;
- (5) Name of shipper and consignee;
- (6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information --

- (1) Prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of loading;
- (5) Port of loading;

- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of the steamship company.

(f) The Contractor agrees to provide with its final invoice under this contract a representation that to the best of its knowledge and belief --

- (1) No ocean transportation was used in the performance of this contract;
- (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;
- (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or
- (4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
TOTAL		

(g) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) The Contractor shall include this clause, including this paragraph (h), in all subcontractors under this contract that--

- (1) Exceed the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation; and



(2) Are for a type of supplies described in paragraph (b)(3) of this clause.

252..248-7000 PREPARATION OF VALUE ENGINEERING CHANGE PROPOSALS  
(MAY 1994)

Prepare value engineering change proposals, for submission pursuant to the value engineering clause of this contract, in the format prescribed by the version of MIL-STD-973 in effect on the date of contract award.



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SPECIAL CLAUSES

SC-1 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK

The Contractor will be required to commence work within 10 calendar days after the date of receipt by him of the notice to proceed, and commence actual dredging under this contract within 15 calendar days after the date of receipt by him of the notice to proceed, to prosecute said work diligently and to complete the entire work ready for use not later than 120 calendar days after the date of receipt by him of the notice to proceed; provided that, should the total quantity of material to be paid for actually removed under the contract exceed the limit established in the Contract Clause entitled: VARIATION IN ESTIMATED QUANTITY, additional time will be allowed at the rate of one calendar day for each 3,000 cubic yards in excess of the established limit. The time stated for completion shall include final clean-up of the premises. (CENAP)

SC-2 LIQUIDATED DAMAGES - CONSTRUCTION (APR 1984)

- a. If the Contractor fails to complete the work within the time specified in the contract, or any extensions thereof, the Contractor shall pay to the Government as liquidated damages, the sum of \$950.00 for each day of delay.
- b. If the Government terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned by the Government in completing the work.
- c. If the Government does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted. (FAR 52.211-12)

SC-3 CONTINUING CONTRACTS (1994 DEC HQ USACE)

- a. This is a continuing contract, as authorized by Section 10 of the River and Harbor Act of September 22, 1922 (33 U.S. Code 621). The payment of some portion of the contract price is dependent upon reservations of funds from future appropriations. The responsibilities of the Government are limited by this clause notwithstanding any contrary provision of the "Payments to Contractor" clause or any other clause of this contract.
- b. The sum of \$500,000 has been reserved for this contract and is available for payments to the Contractor during the current fiscal year. It is expected that Congress will make appropriations for future fiscal years from which additional funds together with funds provided by one or more non-federal project sponsors will be reserved for this contract.
- c. Failure to make payments in excess of the amount currently reserved, or that may be reserved from time to time, shall not entitle the Contractor to a price adjustment under the terms of this contract except as specifically provided in paragraphs f and i below. No such failure shall constitute a breach of this contract, except that this provision shall not bar a breach-of-contract action if an amount finally determined to be due as a termination allowance remains unpaid for one year due solely to a failure to reserve sufficient additional funds therefore.

d. The Government may at any time reserve additional funds for payments under the contract if there are funds available for such purpose. The Contracting Officer will promptly notify the Contractor of any additional funds reserved for the contract by issuing an administrative modification to the contract.

e. If earnings will be such that funds reserved for the contract will be exhausted before the end of any fiscal year, the Contractor shall give written notice to the Contracting Officer of the estimated date of exhaustion and the amount of additional funds which will be needed to meet payments due or to become due under the contract during that fiscal year. This notice shall be given not less than 45 nor more than 60 days prior to the estimated date of exhaustion.

f. No payments will be made after exhaustion of funds except to the extent that additional funds are reserved for the contract. The Contractor shall be entitled to simple interest on any payment that the Contracting Officer determines was actually earned under the terms of the contract and would have been made except for exhaustion of funds. Interest shall be computed from the time such payment would otherwise have been made until actually or constructively made, and shall be at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 85 STAT 97, as in effect on the first day of the delay in such payment.

g. Any suspension, delay, or interruption of work arising from exhaustion or anticipated exhaustion of funds shall not constitute a breach of this contract and shall not entitle the Contractor to any price adjustment under the "Suspension of Work" clause or in any other manner under this contract.

h. An equitable adjustment in performance time shall be made for any increase in the time required for performance of any part of the work arising from exhaustion of funds or the reasonable anticipation of exhaustion of funds.

i. If, upon the expiration of sixty (60) days after the beginning of the fiscal year following an exhaustion of funds, the Government has failed to reserve sufficient additional funds to cover payments otherwise due, the Contractor, by written notice delivered to the Contracting Officer at any time before such additional funds are reserved, may elect to treat his right to proceed with the work as having been terminated. Such a termination shall be considered a termination for the convenience of the Government.

j. If at any time it becomes apparent that the funds reserved for any fiscal year are in excess of the funds required to meet all payments due or to become due the Contractor because of work performed and to be performed under the contract during the fiscal year, the Government reserves the right, after notice to the Contractor, to reduce said reservation by the amount of such excess. (EFAR 52.232-5001)

#### SC-4 CONTRACT DRAWINGS, MAPS AND SPECIFICATIONS

a. The Contractor shall -

- (1) Check all drawings furnished on the CD, immediately upon receipt;
- (2) Compare all drawings and verify the figures before laying out the work;
- (3) Promptly notify the Contracting Officer of any discrepancies, and;
- (4) Be responsible for any errors which might have been avoided by complying with this paragraph (a).

b. Large scale drawings shall, in general, govern small scale drawings. Figures marked on drawings shall, in general, be followed in preference to scale measurements.

c. Omissions from the drawings or specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve the contractor from performing such omitted or misdescribed details of the work, but shall be performed as if fully and correctly set forth and described in the drawings and specifications.

d. The work shall conform to the specifications and the contract drawings identified on the following, all of which are available in the office of the District Engineer, U.S. Army Engineer District, Philadelphia, Room 643, Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107. Drawings are titled: "Maintenance Dredging, Schuylkill River, Mouth to University Avenue, Sta. 0+600 to Sta. 22+665, Philadelphia, PA", and have the following drawing numbers, subtitles, and dates.

Drawing No.	Subtitle	Date	Latest Revision Date
58536	General Plan & List of Drawings	05 June 2000	None
58537	Soundings A.S. #1 and A.S. #2	05 June 2000	None
58538	Soundings A.S.#3,A.S.#4, A.S.#5 & A.S.#6	05 June 2000	None
58539	Soundings A.S. #7 and A.S. #8	05 June 2000	None
58540	Sections	05 June 2000	None
58541	Fort Mifflin Disposal Area	05 June 2000	None

#### SC-5 PHYSICAL DATA (APR 1984)

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor. (FAR 52.236-4)

a. The indications of physical conditions on the drawings and in the specifications are the result of site investigations by surveys.

b. Tide Data. Tide tables and tidal current tables for the Schuylkill River may be obtained from the National Ocean Service, Distribution Division, 6501 Lafayette Avenue, Riverdale, MD 20840. Elevations used herein are referenced to Corps of Engineers Schuylkill River Datum, unless otherwise specified.

c. Weather Conditions. The work area is sheltered except from unusual storms and extremely cold weather conditions. It is believed that work can be performed during all seasons of the year except during winter months when ice conditions may interfere with dredging operations, and subject to the seasonal time restrictions specified in Section 02880, DREDGING. Complete weather records and reports may be obtained from the local U.S. Weather Bureau Office nearest to the work site. The Contractor shall satisfy himself as to the hazards likely to arise from weather conditions during the construction period.

d. Channel Traffic. Traffic in the work area consists of oil tankers, ore and cement ships, and scows and barges towed by tugs. All large vessels are



moved on the Schuylkill River by tugs. Passing vessels may interfere with dredging operations.

e. Conditions of Channel. The channel conditions shown on the Contract Drawings represent the results of surveys made on the dates indicated and can only be considered as indicating the general conditions at that time.

f. Obstruction of Channel. The Government will not undertake to keep the channel free from vessels or other obstructions, except to the extent of such regulations if any, as may be prescribed by the Secretary of the Army, in accordance with the provisions of Section 7 of the River and Harbor Act approved 8 August 1917. The Contractor will be required to conduct the work in such a manner as to obstruct navigation as little as possible, and in case the Contractor's plant so obstructs the channel as to make difficult or endanger the passage of vessels, said plant shall be promptly moved on the approach of any vessel to such an extent as may be necessary to afford a practicable passage. The Contractor shall request the U.S. Coast Guard to issue a Notice to Mariners advising navigation interests that the Contractor's dredging plant will be operating in the project waterway. The Contractor shall submit a request to the U.S. Coast Guard, MSO/Group Philadelphia, 1 Washington Avenue, Philadelphia, PA 19147. The Contractor shall furnish a copy of this request to the Contracting Officer not less than five (5) days prior to the start of dredging. The Contractor shall also notify the U.S. Coast Guard of the approximate time required for completion of dredging. Upon completion of the work, the Contractor shall promptly remove his plant, including ranges, buoys, piles and other marks placed by him under the contract in navigable waters or on shore.

g. Navigation Aids. The Contractor shall not relocate or move any aids to navigation that have been established by the U. S. Coast Guard. If it becomes necessary to have any aid to navigation moved in order to complete dredging operations under this contract, the Contractor shall notify the U.S. Coast Guard at least 15 days prior to the desired date for movement of the aid. All requests shall be made in writing to: Commander (OAN), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA 23704. A copy of each request shall be furnished to the Contracting Officer.

h. Location. The location of work is located in the lower reach of the Schuylkill River within the City of Philadelphia, Pennsylvania.

i. Laying of Submerged Pipelines and Obstruction of Channel. All discharge pipelines crossing the navigation channel shall be submerged. Should it become necessary in the performance of this contract to use a submerged pipeline, the Contractor shall notify the Contracting Officer in advance of the schedule for placement of the pipeline. If the submerged line is to be placed across a navigable channel, the Contractor shall submit a request for approval, at least ten (10) working days (Sundays and holidays excluded) prior to the desired closure date, to the U.S. Coast Guard, MSO/Group Philadelphia, 1 Washington Avenue, Philadelphia, PA 19147. A copy of each request shall be furnished to the Contracting Officer. This request shall contain the following information:

- (1) Location (Channel Centerline Stationing) and depth (over the top of the pipeline) at which the submerged line will be placed;
- (2) The desired length of time the channel is to be closed;
- (3) The date and hour placement or removal will commence;

(4) The date and hour of anticipated completion; and

(5) The name and telephone number of the person to be contacted for information and response to any emergency condition.

The Coast Guard has indicated that the requirements of navigation may make it necessary to establish times other than those requested. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO COORDINATE HIS PLANS WITH THE COAST GUARD SUFFICIENTLY IN ADVANCE OF THE PLANNED CLOSING TO PREVENT DELAY TO THE DREDGING OPERATIONS AND COMPLY WITH THE COAST GUARD REQUIREMENTS. The minimum depth to the top of any submerged pipe in the Schuylkill River between Station 0+600 and Station 20+487 shall not be less than -33.0 feet Schuylkill River datum, and between Station 20+487 and Station 22+665 shall not be less than -26.0 feet Schuylkill River datum.

j. Bridge and Utility Line Crossings:

(1) Bridges: The following bridges cross the Schuylkill River in the vicinity of the work area. The location, type and clearance for each are shown in the following table. Vertical clearances presented are above Mean High Water.

Bridge	Type	Horizontal Clearance	Vertical Clearance	Miles above Mouth
Girard Point	Fixed Hwy.	660 ft.	128 ft.	0.93
George Platt	Fixed Hwy.	619 ft.	135 ft.	1.5
Passyunk Avenue	Bascule Hwy.	200 ft.	33 ft.	3.8

(2) The Contractor shall verify the locations of all utility crossings in the field. The location and elevation of known utilities crossing the river are shown in the following table:

Location	Description	Elevation
Approx. opposite Schuylkill River Front Light	Submarine cables (Fourth Naval District)	40 ft. below MLW
Approx. downstream side of George Platt Bridge	(2) Sewer lines (Phila. Water Dept.) and (2) 8-Inch pipes (Phila. Electric Co.)	50 ft. below MLW
Upstream side of George Platt Bridge	Aerial power wires (Phila. Electric Co.)	164 ft. above MHW
Approx. 25 ft. upstream from George Platt Bridge	(2) 30-inch petroleum pipelines (Arco Pipe Line Co.)	42 ft. below MLW across channel not less than 35 ft. below MLW at Pierhead Lines
Approx. 500 ft. upstream from George Platt Bridge	(8) 12-inch, (3) 14-inch & (1) 16-inch oil lines; (2) 8-inch electric conduits (Gulf Oil Products Co.)	45 ft. below MLW across channel not less than 35 ft. below MLW at Pierhead Lines

Approx. 660 ft. upstream from George Platt Bridge	(2) 8-inch, (7) 2-inch, & (2) 16-inch oil lines; (2) 8-inch electric conduits (Gulf Oil Products Co.)	45 ft. below MLW across channel not less than 35 ft. below MLW at Pierhead Lines
Approx. 800 ft. downstream from 67th Street	14-inch oil line (Defense Plant Corp.)	42 ft. below MLW across channel
Approx. at 67th Street	(3) pipelines: 8, 10 and 12-inch (Gulf Oil Products Co.)	45 ft. below MLW across channel
Approx. at 67th Street	(2) 6-inch pipelines (Gulf Oil Products Co.)	43 ft. below MLW across channel
Approx. 800 ft. downstream from Passyunk Ave. Bridge	Aerial wires (Atlantic Richfield Co.)	150 ft. above MHW
Approx. 550 ft. downstream from Passyunk Ave. Bridge	(6) pipelines: (1) 4-inch, (3) 8-inch and (2) 12-inch (Atlantic Richfield Co.)	42 ft. below MLW across channel
At drawspan, downstream side of Passyunk Ave. Bridge	(2) pipelines, 6-inch oil line, and 30-inch gas line (U.G.I.)	41 ft. below MLW at drawspan
At drawspan, upstream side of Passyunk Ave. Bridge	Submarine power cables (City of Phila.)	33 ft. below MLW at drawspan
Approx. 100 ft. upstream from Passyunk Ave. Bridge	Pipe tunnel (Phila. Gas Works)	90 ft. below MLW in channel Bridge
Approx. 350 ft. upstream from Passyunk Ave. Bridge	(2) 30-inch gas lines (Phila. Gas Works)	40 ft. below MLLW across channel
Approx. 800 ft. upstream from Passyunk Ave. Bridge	(1) 24-inch gas line (Phila. Gas Works)	40 ft. below MLLW across channel
Approx. 900 ft. upstream from Passyunk Ave. Bridge	(1) 24-inch Naphtha line	
Approx. 950 ft. upstream from Passyunk Ave. Bridge	(2) 12-inch, (2) 8-inch, and (1) 4-inch oil pipelines (Atlantic Richfield Co.)	32 ft. below MLW in channel
Downstream side of B & O Bridge, Tasker St.	Submarine Cables (B & O R.R. Co.)	26 ft. below MLW
Upstream side of B & O Bridge Tasker St.	Submarine Cables (B & O R.R. Co. & Phila. Elec. Co.)	26 ft. below MLW
Upstream side of B & O Bridge, Tasker St.	Submarine Cables (Western Union Co.)	On natural bottom

The Contractor shall take all necessary precautions to prevent damage to these utilities. The Contractor shall cause timely notice of the dredging to be given to the owners and, when in the opinion of the Contractor such action is necessary, he shall request that the Government require said owner or owners to mark the pipelines or move the cables so as to avoid interference with the dredging operations. Any request made by the Contractor shall be within 30 days following his receipt of the Notice to Proceed.

k. Bridge to Bridge Radio Telephone Equipment. In order that radio telephone communication may be made with passing vessels, all dredges engaged in work under the contract shall be equipped with and operate bridge-to-bridge radio telephone equipment. The radio telephone equipment shall operate on VHF Channel 13 (156.65 MHZ) with low power output having a communication range of approximately ten miles. The frequency has been approved by the Federal Communication Commission.

l. Disposal Areas: The Government disposal area available for this contract, as shown on the Contract Drawings, is upland disposal area Fort Mifflin, Area A.

m. The most recent maintenance dredging within the contract area was completed by Weeks Marine Dredging Company under Contract No. DACW61-98-C-0022.

n. "Abstract of Bottom Samples" are included as Section 00855 of this contract.

o. Survey control description sheets are included as Section 00845 of this contract.

p. Magnitude of the Contract Work. The estimated value of the contract is between \$1,000,000 and \$5,000,000.

#### SC-6 LAYOUT OF WORK

The Contractor shall lay out its work from Government-provided channel coordinates, furnished as part of each work assignment. The Contractor shall furnish, at its own expense, such stakes, templates, platforms, equipment, range markers and labor as may be required in laying out any part of the work, from the channel coordinates furnished by the Government. The Contractor shall be responsible for executing the work to such lines and grades. The Contractor must have real time differential GPS positioning in accordance with the Corps survey manual, class 1 survey requirements for dredge positioning. The Contractor shall provide real time positioning on a computer screen during dredging, and have the capability of playback in 15 minute intervals. The position must be recorded on disk every 15 minutes and submitted to the Contracting Officer on a monthly basis.(CENAP)

#### SC-7 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 84)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least forty (40) percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government. (FAR 52.236-1)

SC-8 ENVIRONMENTAL LITIGATION (1974 NOV OCE)

a. If the performance of all or any part of the work is suspended, delayed, or interrupted due to an order of a court of competent jurisdiction as a result of environmental litigation, as defined below, the Contracting Officer, at the request of the Contractor, shall determine whether the order is due in any part to the acts or omissions of the Contractor or a Subcontractor at any tier not required by the terms of this contract. If it is determined that the order is not due in any part to acts or omissions of the Contractor or a Subcontractor at any tier other than as required by the terms of this contract, such suspension, delay, or interruption shall be considered as if ordered by the Contracting Officer in the administration of this contract under the terms of the SUSPENSION OF WORK clause of this contract. The period of such suspension, delay or interruption shall be considered unreasonable, and an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) as provided in that clause, subject to all the provisions thereof.

b. The term "environmental litigation", as used herein, means a lawsuit alleging that the work will have an adverse effect on the environment or that the Government has not duly considered, either substantively or procedurally, the effect of the work on the environment. (CENAP)

SC-9 SIGNAL LIGHTS

The Contractor shall display signal lights and conduct his operations in accordance with the General Regulations of the Coast Guard governing lights and day signals to be displayed by towing vessels with tows on which no signals can be displayed, vessels working on wrecks, dredges, and vessels engaged in laying cables or pipe or in submarine or bank protection operations, lights to be displayed on dredge pipe lines, and day signals to be displayed by vessels of more than 65 feet in length moored or anchored in a fairway or channel, and the passing by other vessels of floating plant working navigable channels, as approved by the Commandant, U.S. Coast Guard with respect to vessels on the high seas (33 CFR 81), vessels in inland waters (33 CFR 84 and 33 CFR 88), as applicable. (CENAP)

SC-10 CONTINUITY OF WORK (APR 1965 OCE)

No payment will be made for work done in any area designated by the Contracting Officer until the full depth required under the contract is secured in the whole of such area, unless prevented by ledge rock, nor will payment be made for excavation in any area not adjacent to and in prolongation of areas where full depth has been secured except by decision of the Contracting Officer. Should any such nonadjacent area be excavated to full depth during the operations carried on under the contract, payment for all work therein may be deferred until the required depth has been made in the area intervening. The Contractor may be required to suspend dredging at any time when for any reason the gages or ranges cannot be seen or properly followed. (CENAP)

SC-11 FINAL EXAMINATION AND ACCEPTANCE (APR 1965 OCE)

a. As soon as practicable after the completion of the entire work or any section thereof (if the work is divided into sections) as in the opinion of the Contracting Officer will not be subject to damage by further operations under the contract, such work will be thoroughly examined at the cost and expense of the Government by sounding or by sweeping, or both, as

determined by the Contracting Officer. Should any shoals, lumps, or other lack of contract depth be disclosed by this examination the Contractor will be required to remove same by dragging the bottom or by dredging at the contract rate for dredging, but if the bottom is soft and the shoal areas are small and form no material obstruction to navigation, the removal of such shoal may be waived at the discretion of the Contracting Officer. The Contractor or his authorized representative will be notified when soundings and/or sweepings are to be made, and will be permitted to accompany the survey party. When the area is found to be in a satisfactory condition, it will be accepted finally. Should more than two soundings or sweeping operations by the Government over an area be necessary by reason of work for the removal of shoals disclosed at a prior sounding or sweeping, the cost of such third and any subsequent sounding or sweeping operations will be charged against the Contractor. The rate for each day in which the Government plant is engaged in such sounding or sweeping operations and/or is enroute to or from the site or held, for the Contractor's convenience, at or near the site for these operations, shall be \$3,300.00, except on Saturday, Sunday and holidays when the rate shall be \$3,700.00.

b. Final acceptance of the whole or a part of the work and the deductions or corrections of deductions made thereon will not be reopened after having once been made, except on evidence of collusion, fraud, or obvious error, and the acceptance of a completed section shall not change the time of payment of the retained percentages of the whole or any part of the work. (CENAP)

#### SC-12 SHOALING (1965 APR OCE)

If before the contract is completed, shoaling occurs in any section previously accepted, including shoaling in the finished channel, because of the natural lowering of the side slopes, redredging at contract price, within the limits of available funds, may be done if agreeable to both the Contractor and the Contracting Officer. (CENAP)

#### SC-13 INSPECTION (APR 1965)

The inspectors will direct the maintenance of the gauges, ranges, location marks and limit marks in proper order and position; but the presence of the inspector shall not relieve the Contractor of responsibility for the proper execution of the work in accordance with the specifications. The Contractor will be required:

a. To furnish, on the request of the Contracting Officer or any inspector, the use of such boats, boatmen, laborers, a part of the ordinary and usual equipment and crew of the dredging plant, as may be reasonably necessary in inspecting and supervising the work. However, the Contractor will not be required to furnish such facilities for the surveys, prescribed in the Special Clause entitled: FINAL EXAMINATION AND ACCEPTANCE.

b. To furnish, on the request of the Contracting Officer or any inspector, suitable transportation from all points on shore designated by the Contracting Officer to and from the various pieces of plant and to and from the disposal areas.

Should the Contractor refuse, neglect, or delay compliance with these requirements, the specific facilities may be furnished and maintained by the Contracting Officer, and the cost thereof will be deducted from any amounts due or to become due the Contractor. (CENAP)

SC-14 ACCOMMODATIONS AND MEALS FOR GOVERNMENT INSPECTORS (1965 APR OCE)

a. The Contractor shall furnish regularly to Government inspectors on board the dredge or other craft upon which they are employed a suitable separate room for office and sleeping purposes. The room shall be fully equipped and maintained to the satisfaction of the Contracting Officer; it shall be properly heated, ventilated, and lighted, and shall have a desk which can be locked, a comfortable bed and chair for each inspector, and washing conveniences. The entire cost of the Contractor for furnishing, equipping and maintaining the foregoing accommodations shall be included in the contract price. If the Contractor fails to meet these requirements, the facilities referred to above will be secured by the Contracting Officer, and the cost thereof will be deducted from payments to the Contractor.

b. If the Contractor maintains on this work an establishment for the subsistence of his own employees, he shall, when requested, furnish to inspectors employed on the work, and to all Government agents who may visit the work on official business, meals of a quality satisfactory to the Contracting Officer. The meals furnished will be paid for by the Government at a rate of \$5.00 per person for each meal. (CENAP)

SC-15 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE (MAR 1995) - EFARS

a. This clause does not apply to terminations. See 52.249-5000, Basis for Settlement of Proposals, and FAR Part 49.

b. Allowable cost for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by the Contractor or sub-contractor at any tier shall be based on actual cost data for each piece of equipment or groups of similar serial or series for which the Government can determine both ownership and operating costs from the Contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the Contractor's accounting records, costs for that equipment shall be based upon the applicable provisions of EP 1110-1-8, "Construction Equipment Ownership and Operating Expense Schedule," Regions I. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by the Contracting Officer. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retroactive pricing, the schedule in effect at the time the work was performed shall apply.

c. Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d)(ii) and FAR 31.205-36. Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements, will be determined using the schedule, except that actual rates will be used for equipment leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.

d. When actual equipment costs are proposed and the total amount of the pricing action exceeds the small purchase threshold, the Contracting Officer shall request the Contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. This data shall be submitted on Standard Form 1411, Contract Pricing Proposal Cover Sheet.

(EFARS 52.231-5000)

Note #1: The small purchase threshold is \$100,000.

Note #2: By submitting cost or pricing data, the Contractor grants to the Contracting Officer (or authorized representative) the right to examine those books, records, documents, and/or other supporting data that will permit evaluation of the proposed equipment costs. This right shall extend for 2 years after expiration of contract performance. After price agreement, the Contractor shall certify that the equipment cost or pricing data submitted are accurate, complete and current.

SC-16 PERFORMANCE EVALUATION OF CONTRACTOR (1985 JAN HQ USACE)

a. As a minimum, the Contractor's performance will be evaluated upon final acceptance of the work. However, interim evaluation may be prepared at any time during contract performance when determined to be in the best interest of the Government.

b. The format for the evaluation will be DD 2626, and the Contractor will be rated either outstanding, satisfactory, or unsatisfactory in the areas of Contractor Quality Control, Timely Performance, Effectiveness of Management, Compliance with Labor Standards, and Compliance with Safety Standards. The Contractor will be advised of any unsatisfactory rating, either in an individual element or in the overall rating, prior to completing the evaluation, and all Contractor comments will be made a part of the official record. Performance Evaluation Reports will be available to all DOD contracting offices for their future use in determining Contractor responsibility, in compliance with DFAR 236.201(c)(1). (CENAP)

SC-17 CERF IMPLEMENTATION (1983 JUN OCE)

If the work specified in this contract is performed by a hopper dredge(s), the owner must have an active Basic Ordering Agreement (BOA) for the hopper dredge(s) on file with the Corps. The Contractor shall be obligated to make the hopper dredge(s) available to serve in the Corps of Engineers Reserve Fleet (CERF) at any time that the hopper dredge(s) is performing work under this contract. When the Contracting Officer is notified of the decision to activate this dredge(s) into the CERF, he shall take appropriate action to release the dredge(s). He may then extend or terminate the contract to implement whichever action is in the best interest of the Government. The CERF Contractor shall also be subject to the following conditions:

a. The Director of Civil Works may require the Contractor to perform emergency dredging at another CONUS (48 contiguous states) site for a period of time equal to the remaining time under this contract at the date of notification plus up to ninety (90) days at the previously negotiated rate which appears on the schedule of prices in the BOA.

b. The Chief of Engineers may require the Contractor to perform emergency dredging at an OCONUS (Outside CONUS which includes Alaska, Hawaii, Puerto Rico, the Virgin Islands, or U.S. Trust Territories) site for a period of time equal to the time remaining under this contract at the date of notification plus up to one hundred eighty (180) days at the negotiated rate which appears on the schedule of prices in the BOA.

c. The CERF shall be activated by the Chief of Engineers or the Director of Civil Works; then the Ordering Contracting Officer will notify the Contractor. From the time of notification, the selected hopper dredge(s)



must depart for the emergency assignment within seventy-two (72) hours for CONUS or ten (10) days for OCONUS assignments.

d. A confirming delivery order will be issued pursuant to the Basic Ordering Agreement (BOA) by the Ordering Contracting Officer. Such delivery order shall utilize the schedule of rates in the BOA for the specific hopper dredge(s).

e. If during the time period specified in a, b, or c, a CERF vessel(s) is still required, the contract performance may be continued for additional time by mutual agreement. (CENAP)

SC-18 TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER (OCT 1989)

a. This clause specifies the procedure for determination of time extensions for unusually severe weather in accordance with the Contract Clause entitled: DEFAULT (FIXED-PRICE CONSTRUCTION). In order for the Contracting Officer to award a time extension under this clause, the following conditions must be satisfied:

- (1) The weather experienced at the project site during the contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the project location during any given month.
- (2) The unusually severe weather must actually cause a delay to the completion of the project. The delay must be beyond the control and without the fault or negligence of the Contractor.

b. The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location and will constitute the base line for monthly weather time evaluations. The Contractor's progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities. For the purpose of this contract, unusually severe weather is defined as daily precipitation equal to or exceeding 0.5 inches and/or maximum daily temperature not exceeding 32 degrees F.

MONTHLY ANTICIPATED ADVERSE WEATHER DELAY  
WORK DAYS BASED ON (7) DAY WORK WEEK

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
10	6	2	3	3	2	2	2	2	2	2	4

c. Upon acknowledgment of the Notice to Proceed (NTP) and continuing throughout the contract, the Contractor shall record on the daily CQC report, the occurrence of adverse weather and resultant impact to normal scheduled work. Actual adverse weather days must prevent work on critical activities for 50 percent or more of the Contractor's scheduled work day. The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in previous month), be calculated chronologically from the first to the last day of each month, and be recorded as full days. If the number of actual adverse weather delay days exceeds the number of days anticipated in paragraph b. above, the Contracting Officer will convert any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days, and issue a modification in accordance with the Contract Clause entitled: DEFAULT (FIXED PRICE CONSTRUCTION). (ER 415-1-15)

SC-19 INSURANCE REQUIREMENTS

Evidence of the following types of insurance shall be provided to the Contracting Officer prior to commencement of work and shall be maintained throughout the period of performance.

a. General Liability Insurance (Comprehensive form of policy): Bodily Injury Liability - \$500,000 per occurrence.

b. Automobile Liability Insurance (Comprehensive form of policy): Bodily Injury Liability - \$200,000 per person and \$500,000 per accident. Property Damage Liability - \$20,000 per accident.

c. Workmen's Compensation and Employer's Liability Insurance: Compliance with applicable workmen's compensation and occupational disease statutes is required. Employer's liability coverage in the minimum amount of \$100,000 is also required."

d. Applicable Marine Casualty and Marine Workmen's Compensation Insurance: As appropriate for this contract.

SC-20 YEAR 2000 COMPLIANCE

a. In accordance with FAR 39.106, the contractor shall ensure that with respect to any design, construction, goods, or services under this contract as well as any subsequent task/delivery orders issued under this contract (if applicable), all information technology contained therein shall be Year 2000 compliant.

b. The contractor shall:

(1) Perform, maintain, and provide an inventory of all major components to include structures, equipment, items, parts, and furnishings under this contract and each task/delivery order which may be affected by the Y2K compliance requirement.

(2) Indicate whether each component is currently Year 2000 compliant or requires an upgrade for compliance prior to government acceptance

-- End of Section --

SECTION 00805

CONTRACT ADMINISTRATION DATA

00805-1 ACCOUNTING AND APPROPRIATION DATA:

To Be Shown on Award

00805-2 CONTRACT ADMINISTRATION IS RETAINED BY THE CONTRACTING OFFICER

U.S. Army Engineer District, Philadelphia  
Attn: CENAP-CT-C  
Wanamaker Building  
100 Penn Square East  
Philadelphia, Pennsylvania 19107-3390

00805-3 PAYMENT BY:

U.S. Army Corps of Engineer Finance Center  
5720 Integrity Drive  
Millington, TX 38054-5005

00805-4 BILLING ADDRESS:  
Invoice shall be forwarded as follows:

U.S. Army Engineer District, Philadelphia  
Attn: CENAP-OP-TS  
Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390



General Decision Number PA000050

General Decision Number PA000050

Superseded General Decision No. PA990050

State: Pennsylvania Construction Type:

DREDGING County(ies):

STATEWIDE

Pennsylvania All Dredging, except self-propelled hopper dredges, on the Atlantic Coast to the southerly border of the State of Maryland, & tributary waters emptying into the Atlantic Ocean, the Chesapeake & Delaware Canal, Baltimore City and Baltimore County Maryland.

Modification Number Publication Date

0 02/11/2000

COUNTY(ies):

STATEWIDE

ENGI0025D 10/01/1999

	Rates	Fringes
DIPPER & CLAMSHELL DREDGE:		
Operator	26.26	5.71+a+b
Engineer	23.12	5.71+a+b
Maintenance Engineer	22.07	4.11+a+b
Welder	21.72	4.11+a+b
Mate	20.57	4.11+a+b
Boat Master	21.57	4.11+a+b
Boat Captain	20.72	4.11+a+b
Fireman; Oiler	17.39	4.51+a+b
Deckhand; Tug Deckhand	16.96	4.51+a+b
Scowman	12.06	4.20+a+b
DRAG BUCKET DREDGE:		
Operator	25.09	4.81+a+b
Engineer	21.41	4.81+a+b
Maintenance Engineer	21.21	4.51+a+b
Mate	19.82	4.51+a+b
Deckhand	16.17	4.20+a+b
HYDRAULIC DREDGES:		
Leverman	25.78	5.71+a+b
Engineer; Derrick Operator	22.61	5.71+a+b
Chief Mate	22.28	5.71+a+b
Chief Welder	22.90	5.71+a+b
Maintenance Engineer	22.07	4.11+a+b
Electrician	21.92	5.71+a+b
Welder Dredge	21.71	5.71+a+b
Spider Barge Operator	21.52	4.11+a+b
Mate	20.57	4.11+a+b
Boat Master	21.73	5.71+a+b
Boat Captain	20.72	4.11+a+b
Steward	20.52	4.11+a+b
Fireman; Oiler	17.39	4.51+a+b
Deckhand	16.74	4.51+a+b
Tug Deckhand	16.96	4.51+a+b
Shoreman	16.74	4.51+a+b
Assistant Cook	16.84	4.51+a+b
Night Cook	16.84	4.51+a+b

Messman	16.36	4.51+a+b
Janitor/Porter	16.36	4.51+a+b
COMPANY LEAD DREDGEMAN:		
Lead Dredgeman	25.78	5.71+a+b
TUG BOATS over 1,000 H.P. (with master or captain having license endorsed for 200 miles off shore):		
Tug Master	23.09	5.71+a+b
Tug Captain	22.16	5.71+a+b
Tug Chief Engineer	21.47	4.11+a+b
Tug Engineer	21.03	4.11+a+b
Tug Deckhand	16.96	4.51+a+b
TUG BOATS over 1,000 H.P. (without master or captain having license endorsed for 200 miles off shore):		
Tug Master	20.71	4.51+a+b
Tug Captain	19.80	4.51+a+b
Tug Engineer	19.80	4.51+a+b
Tug Deckhand	16.36	4.20+a+b
DRILL BOATS:		
Engineer	23.24	4.81+a+b
Blaster	23.51	4.81+a+b
Driller	23.25	4.81+a+b
Welder	22.77	4.51+a+b
Machinist	22.77	4.51+a+b
Tug Master	20.26	4.51+a+b
Tug Captain	19.34	4.51+a+b
Oiler	20.25	4.20+a+b
Tug Deckhand	15.83	4.20+a+b
Core Driller	18.38	4.20+a+b
DIVERS:		
Diver	35.22	4.81+a+b
Standby Diver	24.51	4.81+a+b
Tender	27.09	4.81+a+b
Standby Tender	20.66	4.51+a+b
DREDGING PIPELINE CABLE-LAYING:		
Leverman	24.30	4.81+a+b
Control Tower Operator	22.44	4.81+a+b
Rigger	17.18	4.20+a+b
Line up Operator, End Prep.	16.62	4.20+a+b
Diver	35.99	4.81+a+b
Diver Tender	22.33	4.81+a+b
ENGINEER:		
1st	22.44	4.81+a+b
2nd, 3rd & 4th	22.12	4.81+a+b
Electrician	21.80	4.81+a+b
Elec. Hydro Tech.	18.41	4.51+a+b
Tug Master	21.79	4.81+a+b
Tug Captain	20.67	4.51+a+b
PREMIUMS: Additional 20% for hazardous material work		
FOOTNOTES APPLICABLE TO ALL ABOVE CRAFTS:		

a. PAID HOLIDAYS: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day and Good Friday.

b. VACATION: Eight percent (8%) of the straight time rate multiplied by the total hours worked.

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR?5.5(a

#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U. S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U. S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

4.) All decisions by the Administrative Review Board are final.  
END OF GENERAL DECISION

BRS Document Viewer  
General Decision Number PA000006

General Decision Number PA000006  
Superseded General Decision No. PA990006  
State: Pennsylvania Construction Type:  
HEAVY HIGHWAY  
County(ies):  
BUCKS DELAWARE PHILADELPHIA  
CHESTER MONTGOMERY  
HEAVY AND HIGHWAY CONSTRUCTION PROJECTS  
Modification Number Publication Date  
0 02/11/2000  
1 03/24/2000  
2 04/07/2000

COUNTY(ies):  
BUCKS DELAWARE PHILADELPHIA  
CHESTER MONTGOMERY  
BOIL0013G 08/30/1998

	Rates	Fringes
BOILERMAKERS	28.48	11.26

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CARP0454D 07/01/1999

	Rates	Fringes
PILEDRIVERMEN	25.00	15.79+A

FOOTNOTE:

A. PAID HOLIDAYS: Washington's Birthday, Memorial Day,  
Independence Day, Labor Day, Thanksgiving Day, and  
Christmas Day (provided the employee works the day  
before the holiday and the day after the holiday)

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CARP0612A 05/01/1999

	Rates	Fringes
CARPENTERS	24.55	12.46+A

FOOTNOTE:

A. PAID HOLDIDAY: Labor Day

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CARP1906A 07/01/1999

	Rates	Fringes
MILLWRIGHTS	24.07	13.46

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ELEC0098A 05/01/1999

	Rates	Fringes
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BUCKS COUNTY: Starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad Bridge to Route 09113, north 09113 to Route 152, north along Route 152 to the Humeville Road, east on Humeville Road to Route 333, north on Route 344 to the junction of Spurs 281 and 252, continue north on Spur 252 to Route 09028, west on 09028 to Route 152, north on 152 to TR 232, north on TR 532 to Tr 113, north on TR 113 to TR 232 at Anchor Inn, northeast on TR 232 and continue northeast along Route 659 to Route 09060, west on 09060 to Route 402, north on 402 to the Borough line at the southwest corner of the Borough of New Hope. The Borough of New Hope is excluded. Starting at the Delaware at the Delaware River and proceeding southwest along the Plumstead-Solebury and the Plumstead-Buckingham Township lines to Route 09064, northwest on 09064 to U.S. Highway 611 south on 611 to the spur of Route 270, northwest along the spur to Route 397, Southwest on 397 to Route 350, southeast on 350 to Route 395, southwest on 395 to Route 09060, southeast on 09069 to Route 09041 southwest on 09041 to the Montgomery County line.

DELAWARE COUNTY: That portion east of a line following State Highway 320 from Montgomery County to Maple, then along the Springfield Road to Saxer Ave, along Saxer Avenue to Powell Road, along Powell Road to State Highway 420 and continuing in a straight line to the Delaware River.

MONTGOMERY COUNTY: That portion southeast of a line following Lower State Road from Bucks County southwest to the Bethlehem Pike (U.S Highway 309), south on the Bethlehem Pike to the Penlllyn Pike, southwest on the Penlllyn and Blue Bell Pikes to the Wissahickon Creek, southeast on the Wissahickon Creek to the Butler Pike to North Lane near Conshohocken Borough, southwest on North Lane to Schuylkill River and continuing southeast in a line to the Spring Mill Road and southwest on the Spring Mill Road to Delaware County.

PHILADELPHIA COUNTY

ELECTRICIANS	30.26	42.12%
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ELEC0102D 06/01/1999

	Rates	Fringes
BUCKS COUNTY (Plumstead, Bedminster, Tinicum, Nockomixon, Bridgeton and Durham Townships in their entireties, and that portion of Haycock and Springfield Townships east of a line following State Highway 412, from Northampton County south to Route 09071 to State Highway 212, along Highway 212 to Route 09068, and along 09068 to State Highway 313. Also included is that portion of Dublin Borough east of State Highway 313		
ELECTRICIANS	33.09	35%

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ELEC0126D 01/01/2000

Rates

Fringes

CHESTER, DELAWARE, MONTGOMERY, PHILADELPHIA, AND REMAINDER OF  
BUCKS COUNTY

## LINE CONSTRUCTION:

Lineman	32.23	16.25%+2.80
Winch Truck Operator	22.56	16.25%+2.80
Truck Driver	20.95	16.25%+2.80
Groundman	19.34	16.25%+2.80

\* ELEC0269A 10/01/1999

Rates

Fringes

BUCKS COUNTY (Area East of a line starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad Bridge to Route 09113, north along 09113 to route 152, north along route 152 to the Hulmeville Rd., east on the Hulmeville to Route 344, north on route 344 to the junction of Spurs 281 and 252 continue north on spur 252 and route 09028, west on 09028 to Route 152, north on 152 to TR 532, north on TR 532 to TR 113, north on TR 113 to TR 232 as Anchor Inn, northeast on TR 232 and continue northeast along 659 to Route 09060, West on 09060 to Route 402, north on 402 to the Borough Line at the southwest corner of the Borough of New Hope; including the Boroughs of New Hope and Bristol)

ELECTRICIANS	32.30	28%+5.20
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ELEC0269C 10/01/1997

Rates

Fringes

BUCKS COUNTY - That portion east of a line starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad Bridge to Route 09113, north along 09113 to route 152, north along route 152 to the Hulmeville Rd., east on the Hulmeville to Route 344, north on route 344 to the junction of Spurs 281 and 252 continue north on spur 252 and route 09028, west on 09028 to Route 152, north on 152 to TR 532, north on TR 532 to TR 113, north on TR 113 to TR 232 as Anchor Inn, northeast on TR 232 and continue northeast along 659 to Route 09060, West on 09060 to Route 402, north on 402 to the Borough Line at the southwest corner of the Borough of New Hope. The Boroughs of New Hope and Bristol are included.

## LINE CONSTRUCTION:

Lineman, Cable Splicer, Heavy Equipment Operator, and Truck Drivers	29.95	5.00+29%
Groundman, Winch Operator	23.96	5.00+29%

ELEC0313G 12/01/1996

	Rates	Fringes
DELAWARE COUNTY : (That portion south of U.S. Highway No. 1 and west of U.S. Highway No. 202) Chester County (That portion South and east of U. S. Highway 1)		
ELECTRICIANS	22.37	49.33%

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ELEC0375A 06/01/1999

	Rates	Fringes
BUCKS COUNTY (East Rock Hill, West Rock Hill, Milford and Richland Townships in their entirety and that portion of Haycock and Springfield Townships west of a line following State Highway 212 from Northampton County South to Route 09071 along 09071 to state Highway 212, along Highway 212 to Route 09068 and along 09068 to State Highway 313)		
ELECTRICIANS	24.75	3%+3.03

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ELEC0380A 09/06/1999

	Rates	Fringes
BUCKS COUNTY (Hilltown and New Britain Townships in their entirety; that portion of Telford Borough Northeast of County Line Road (Main Street) and bounded by West Rock Hill and Hilltown Township that portion of Dublin Borough West of State Highway 313, and that portion of Doylestown and Warrington Townships and Doylestown Borough Northwest of a line following U.S. Highway 611 South from Route 09064 to the spur of Route 270, and proceeding Northwest along the spur to Route 397, Southwest on 397 to Route 350, Southeast on 350 to Route 395, Southwest on 395 to Route 09069, Southeast on 09069 to Route 09041, Southwest on 09041 to the Montgomery County Line)		
DELAWARE COUNTY (The portion of Radnor Township North of U.S Highway 30 and West of State Highway 320)		
MONTGOMERY COUNTY (The portion Northwest of a line following Lower State Road from Bucks County Southwest to Bethlehem Pike (U.S. Highway 309), South on Bethlehem Pike to Penllyn Pike, Southwest on the Penllyn and Blue Bell Pikes to Wissahickon Creek to the Butler Pike, Southwest Wissahickon Creek to Butler Pike, Southwest on Butler Pike, to North Lane near Conshohocken Borough, Southeast on North Lane to the Schuylkill River and continuing Southeast in a line to Spring Mill Road, Southwest on Spring Mill Road to Delaware County; but excluding Upper Hanover, Douglas, Upper Pottsgrove, West Pottsgrove Townships and also excluding that portion of the Borough of Pottstown North and West of a line drawn Northeast on Kein Street from the Schuylkill River to Reading Railroad Northwest on the railroad to Madison Street, to High Street, East on High Street to Green Street, North on Green Street and Northeast on Mintzer Street to Lower Pottsgrove Township Line, along this township line and the borough line Northwest to Adams Street and Beehive Road, Northeast on Beehive Road to the Township Line at Mervine Street)		

CHESTER COUNTY (East Coventry, East Vincent, West Vincent, East Pikeland, West Pikeland, Uwchlan, Upper Uwchlan, East Brandywine, Schuylkill and Charleston Townships in their entirety, and that portion of Clan, East Clan, East Whiteland & West Whiteland, Tredyffrin, Willistown, Easttown Townships and Borough of Downingtown north of U. S. Highway 30 )

ELECTRICIANS	29.22	35%
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ELEC0654A 05/31/1999

	Rates	Fringes
DELAWARE COUNTY (The portion south of U.S. Highway 30 and north of that part U.S. Highway 1 between U.S. Highway 202 and the Chester County Line, and east of that part of U.S. Highway 202 between U.S. Highway 1 and the Delaware Line, and west of a line extending from Montgomery County along State Route 320 to Maple, then along the Springfield Road to Saxer Avenue, along Saxer Avenue to Powell Road; along Powell Road to State Highway 420; along 420 and continuing in a straight line to the Delaware River in the State of Pennsylvania) CHESTER COUNTY (That portion south of U. S. Highway 30 and north of that part of U.S. Highway 1)		
ELECTRICIANS	27.68	4.87+8.74%

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ELEC0743A 09/01/1999

	Rates	Fringes
CHESTER (Coatesville, Honey Brook, South Coventy, Valley, Wallace, Warwick, West Brandywine, West Clan, and West Nantmeal Twps); AND MONTGOMERY (Douglas, Pottstown, Upper Pottsgrove, and West Pottsgrove, Twps) COUNTIES		
ELECTRICIANS	21.55	3%+5.87

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ELEC0743G 09/01/1998

	Rates	Fringes
CHESTER COUNTY (The portion of Sadsbury and West Sadsbury Township north of U.S. Highway 30)		
ELECTRICIANS	18.40	3%+4.07

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ENGI0542D 05/01/1999

	Rates	Fringes
POWER EQUIPMENT OPERATORS: HEAVY, HIGHWAY, AND WATER LINE CONSTRUCTION (Off Plant Site)		
GROUP 1	25.29	29.5%+4.76+A
GROUP 2	25.04	29.5%+4.76+A
GROUP 3	21.57	29.5%+3.96+A
GROUP 4	21.26	29.5%+3.96+A
GROUP 5	19.54	29.5%+3.97+A
GROUP 6	18.55	29.5%+3.97+A

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Handling steel and stone in connection with erection, cranes doing hook work, any machine handling machinery, helicopters, concrete pumps building machines similar to the above, including remote control equipment.

GROUP 2: All types of cranes, All types of backhoes, Cableways, Draglines, Keystones, all types of shovels, Derricks, Pavers 21E and over, Trenching machines, Trench shovel, Graddalls, Front-End loaders, Boat Captain, Pippin type backhoes, Tandems scrapers, Towers type crane operation erecting, Dismantling, Jumping or Jacking, Drills (self-contained), (drillmaster type) forklift (20 ft. and over), Motor patrols (fine grade), Batch plant with mixer, Carryalls, Scraper, Trounappulls, Roller (Hith Grade Finishing), Spreaders (asphalt), Bulldozers and Tractors, Mechanic welder, Conveyor loaders (euclid-type wheel), Concrete pump, Milling Machines, Hoist with two towers, Building hoist double drum (unless used as a single drum), Mucking machines in tunnel, All auto grade and concrete finishing machines, Bundle pullers/extractors (tublar), toxic/hazardous waste removal rate 20 per cent added to all classification, bobcat, side broom, directional boring machines, vermeet saw type machines ( other than hand held) tractor mounted hydro axe, chipper with boom, all machine similar to the above including remote control equipment.

GROUP 3: Asphalt plant engineers, Well drillers, Ditch witch (small trencher), Motor patrols, Fine grade machines, Ten-ton roller (grade fill stone base), Concrete breaking machines, Guilloline only, Stump grinder, Conveyors (except building conveyors), Fork lift trucks of all types, High pressure boilers, Machine similar to the above, including remote control equipment.

GROUP 4: Seaman, Pulverizer form line grader, Farm tractors, road finishing, Concrete spreader, Power broom (self-contained), Seed spreader, Grease truck.

GROUP 5: Compressors pumps, Well point pumps, Welding machines Tireman, Power equipment, Maintenance engineer (power boats), and machines similar to the above.

GROUP 6: Fireman, Oilers and deck hands (personnel Boats), grease truck.

FOOTNOTE:

A. PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day  
 \*\*TOXIC/HAZARDOUS WASTE REMOVAL\*\*\* Add 20 per cent to basic hourly rate for all classifications

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IRON0068D 07/01/1999		
	Rates	Fringes
BUCKS COUNTY (Remainder)		
IRONWORKERS, Structural, Ornamental, and Reinforcing	26.56	18.90
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IRON0161A 07/01/1999		
	Rates	Fringes
BUCKS COUNTY (Includes the towns of Bensalem, Breadysville, Bristol, Churchville, Cornwells Heights, Davisville, Eddington, Feasterville, Hartsville, Johnsville, Line Lexington, Neshaminy, Southampton, Tradesville, Trevoise, Unionville, Warminster, and Warrington), DELAWARE (North of a line running along State Route		

352 to right on Stae Route 291 to State Line); CHESTER (Includes the towns of Alsham, Anselma, Bacton, Berwyn, Cedar Hollow, Charlestown, Chester Springs, Cromby, Devon, Devault, Daylesford, Diamond Rock, Dutton Mill, Frazer, Goshenville, Howellville, Kimberton, Ludwig Corner, Paoli, Matthews, Perkiomen Junction, Phoenixville, Rapps Corner, Rocky Hill, Strafford, Sugartown, Tanguy, Valley Forge, Valley Store, White Horse, Williams Corner); MONTGOMERY (Remainder); and PHILADELPHIA COUNTIES

## IRONWORKERS:

Rigger and Machinery Mover	26.20	12.70
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IRON0401A 07/01/1999

## Rates

## Fringes

BUCKS (Includes the towns of BENSalem, Breadysville, Bristol Churchville, Cornwells Heights, Davisville, Eddington, Feasterville, Hartsville, Johnsville, Line Lexington, Neshaminy, Southampton, Tradesville, Trevoise, Unionville, Warminster, and Warrington); DELAWARE (North of a line running along State Rt 352 to right on State Rt 291 to State Line); CHESTER (Includes the towns of Aldham, Anselma, Bacton, Berwyn, Cedar Hollow, Charlestown, Chester Springs, Cromby, Devon, Devault, Daylesford, Diamond Rock, Dutton Mill, Frazer, Goshenville, Howellville, Kimberton, Ludwigs Corner, Paoli, Matthews, Perkiomen Junction, Phoenixville, Rapps Corner, Rocky Hill, Strattford, Sugartown, Tanguy, Valley Forge, Valley Store, White Horse, Williams Corner, and Wilsons Corner); MONTGOMERY (Remainder); and PHILADELPHIA COUNTIES

## IRONWORKERS:

Structural and Ornamental	29.60	13.90
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IRON0405A 07/01/1999

## Rates

## Fringes

BUCKS (Includes the towns of Bensalem, Breadysville, Bristol, Churchville, Cornwell Heights, Davisville, Eddington, Festerville, Hartsville, Johnsville, Line Lexington, Neshaminy, Southampton, Transville, Trevoise, Unionville, Warminster, and Warrington), DELAWARE (North of a line running along State Route 352 to right on State Route 291 to State Line); CHESTER (Includes the towns of Aldham, Anselma, Bacton, Berwyn, Cedar Hollow, Charlestown, Chester Springs, Cromby, Devon, Devault, Daylesford, Diamoond Rock, Dutton Mill, Frazer, Goshenville, Howellville, Kimberton, Ludwigs Corner, Paoli, Mathews, Perkiomen Junction, Phoenixville, Rapps Corner, Rocky Hill, Strafford, Sugartown, Tanguy, Valley Forge, Valley Store, White Horse, Williams Corner, and Wilsons Corner); MONTGOMERY (Remainder); AND PHILDELPHIA COUNTIES

## IRONWORKERS:

Reinforcing Steel Mesh, Rebar Work	26.39	12.95
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IRON0420G 07/01/1999

## Rates

## Fringes

MONTGOMERY COUNTY (Anise, Berguy, Congo, Douglas, East Greenfield, East Limerick, East Slaford, East Zieglerville, Engleville, Fagleysville, Ford, Gilbertsville, Green Lane, Hanover, New Perkisionenville, Niato, Palm, Obelish, Pennsburg, Perkiomen, Pottstown, Royerford, Roytown, Sammamansville, Tylerport, Upper Hanover, Upper Pottsgrove, Upper Wodall, West Limerick, West Salford, and West Zieglerville Townships)

IRONWORKERS:

Projects \$100,000,000 and greater, all work	21.00	12.20
Projects less than \$100,000,000	20.50	12.20

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IRON0451D 07/01/1999

	Rates	Fringes
CHESTER (Remainder of County), AND DELAWARE (Remainder of County) COUNTIES		

IRONWORKERS:

Structural, Ornamental, and Reinforcing	23.60	12.25
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LABO0401A 05/01/1999

	Rates	Fringes
LABORERS:		
GROUP 1	19.43	10.47
GROUP 2	19.23	10.47
GROUP 3	19.13	10.47
GROUP 4	19.28	10.47
GROUP 5	19.03	10.47
GROUP 6	19.68	10.47
GROUP 7	19.53	10.47
GROUP 8	19.38	10.47
GROUP 9	19.93	10.47
GROUP 10	13.83	10.47
GROUP 11	19.45	10.47
GROUP 12	22.54	10.47

LABORERS CLASSIFICATIONS

GROUP 1: Multiple wagon drill operator

GROUP 2: Finished surface asphalt raker; pipelayers; conduit and duct layer; jackhammer operator; paving breaker; experienced pipelayer or caulker (all joints up to within 5 ft of building foundation line)

GROUP 3: Other pneumatic tool operators; laborers stripping concrete forms, carrying or handling lumber, steel, steel mesh, and other concrete materials; form pinners; tool room men; mortar mixers; concrete pitman & spaders; grademen; asphalt shovelers; setting cut stone, granite or artificial stone; hod carriers; scaffold builders; all other laborers with the exception of workers in compressed air, relief joints and approach slab; men working in sheeting, pouring concrete, assembling and placing gabians

GROUP 4: Wagon drill operators

GROUP 5: Yard workers: Laborers, sscale mixmen, burnermen, dustmen, feeder

GROUP 6: Free air tunnel: Miner bore driver, blaster, drillers  
pneumatic shield operator; miners

GROUP 7: Form setters; circular caisson excavation bottom men  
underpinning excavation bottom men, welders, burner and air  
tugger

GROUP 8: Trackmen; brakemen; groutmen; bottom shaft men; all  
others in free air tunnels

GROUP 9: Welders and burners

GROUP 10: Flaggers

GROUP 11: Powderman

GROUP 12: Toxic/hazardous waste handler

-----  
LAB00402A 01/01/2000

	Rates	Fringes
LANDSCAPING:		
Landscape Laborers	15.46	10.09+A
Farm Tractor Driver, Hydroseeder Nozzleman, Mulcher Nozzleman	15.86	10.09+A
FOOTNOTE:		
A. PAID HOLIDAYS: Independence Day, Labor Day, and Thanksgiving Day		

-----

PAIN0021D 05/01/1999

	Rates	Fringes
BUCKS, CHESTER, DELAWARE, PHILADELPHIA COUNTIES AND REMAINDER OF MONTGOMERY COUNTY		
PAINTERS:		
Brush	22.99	10.03
Spray, Steel, Swing	24.24	10.03
Roller	22.99	10.03

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PAIN0021H 06/01/1999

	Rates	Fringes
MONTGOMERY COUNTY (Douglas, New Hanover, Pottsgrove, and Pottstown Townships)		
PAINTERS:		
Brush & Roller	18.00	6.30
Spray	19.00	6.30
Steel	19.40	6.30

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PLAS0592A 05/01/1999

	Rates	Fringes
CEMENT MASONS	21.45	13.34

-----

PLUM0420A 05/01/1999

	Rates	Fringes
STEAMFITTERS	29.45	11.81

-----

PLUM0690H 05/01/1999

	Rates	Fringes
PLUMBERS	29.29	11.95

-----



TEAM0470B 05/01/1999

	Rates	Fringes
TRUCK DRIVERS:		
GROUP 1	18.60	6.9225+A+B
GROUP 2	18.70	6.9225+A+B
GROUP 3	18.95	6.9225+A+B

## FOOTNOTES FOR TRUCK DRIVERS:

- A. PAID VACATION: Employee will earn one vacation day for every two months up to a maximum of five vacation days per calendar year. During each two consecutive months period, employee must have worked twenty-six days in that two month period. After 130 workdays the employee will be entitled to all days of vacation.
- B. PAID HOLIDAYS: Memorial Day, Independence Day, Labor Day and Veterans Day and five personal holidays provided such employee works the scheduled work day before and after said holiday; and employee gives employer one week's notice requesting a personal holiday. The eligibility for personal holiday every two months up to a maximum of five consecutive month period, employee must have worked 26 days in that two month period. After 130 work days the employee will be entitled to all personal holidays.

## TRUCK DRIVERS CLASSIFICATIONS

GROUP 1 - Stake body truck (single axle, dumpster)

GROUP 2 - Dump trucks, tandem and batch trucks, semi-trailers, agitator mixer trucks, and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

GROUP 3 - Euclid type, off-highway equipment or belly dump trucks and double hitched equipment, staddle (ross) carrier, low-bed trailers

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(v)).

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In the listing above, the "SU" designation means that rates listed under that identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

## WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U. S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

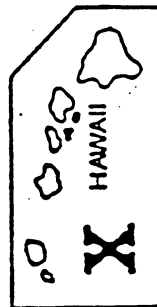
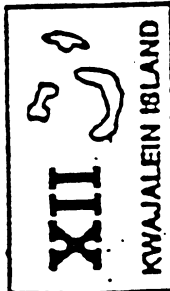
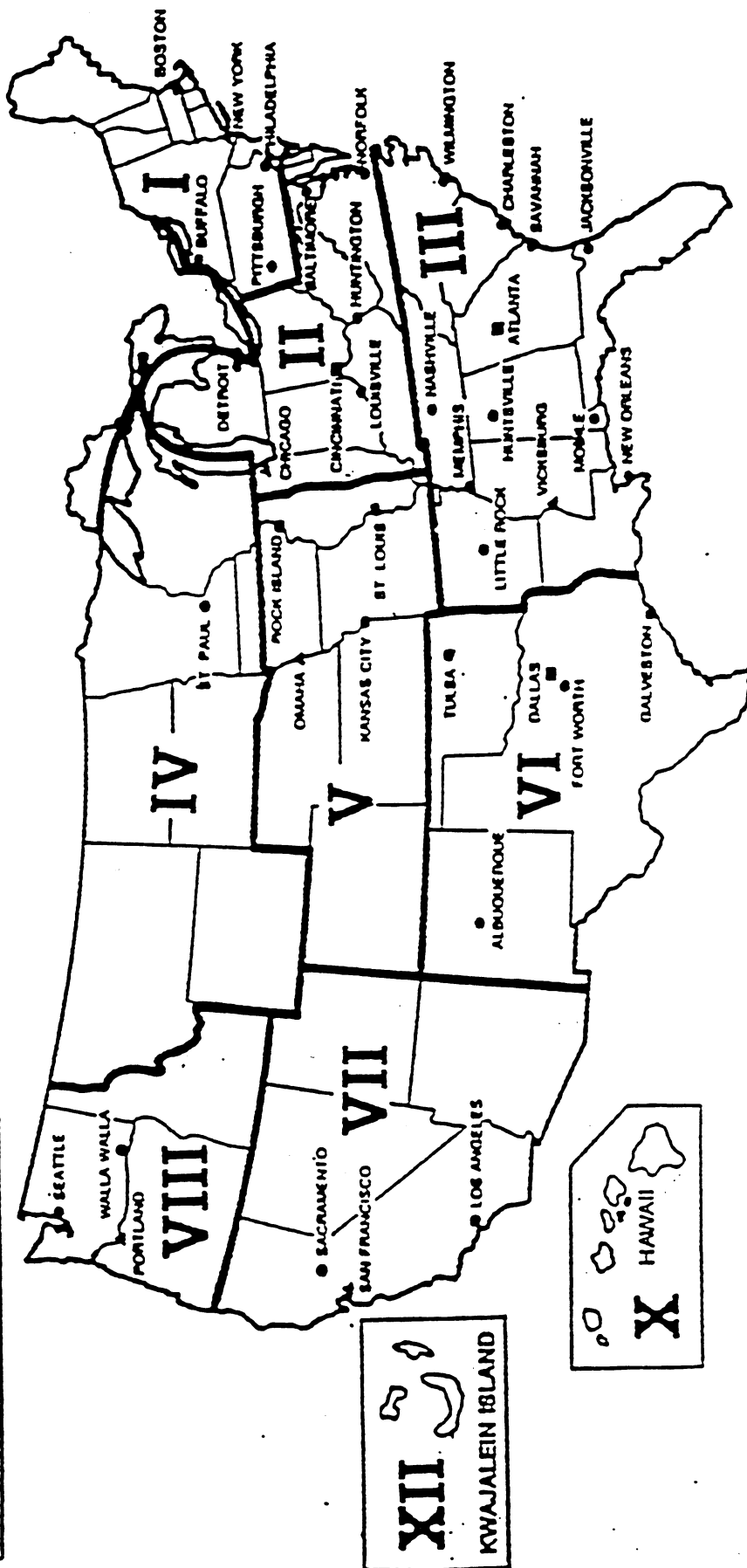
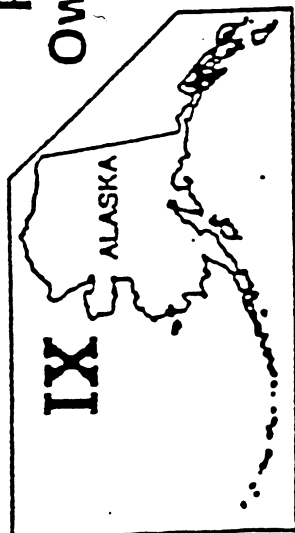
3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U. S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

# Regions for the Construction Equipment Ownership and Operating Expense Schedule



Vol. No. I Stock No. 008-022-00254-5 Cost \$26.00

Copies of Schedule available from: U.S. Government Printing Office  
Document Warehouse  
8160 Cherry Lane  
Laurel, MD 20707

Phone: (Area Code 301) 953-7974



## SURVEY CONTROL DESCRIPTION SHEETS





12 SEP 85 5 JUN 84 Schuylkill River, Pa 5 Dec 80

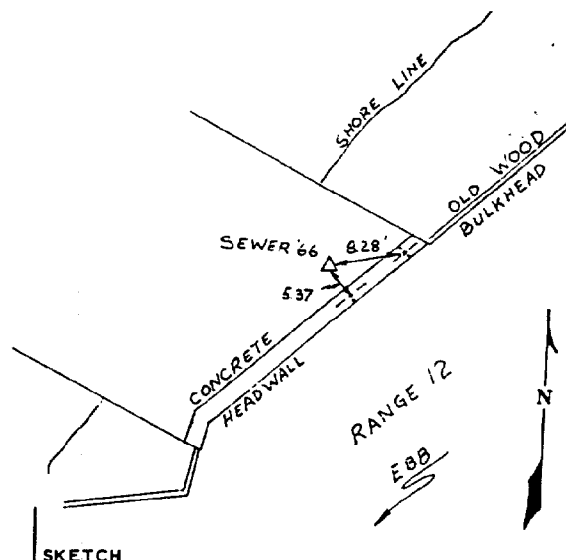
COUNTRY U. S. A.		TYPE OF MARK Bronze Disk		STATION SEWER 2 1966	
LOCALITY Phila., Pa.		STAMPING ON MARK SEWER 2 1966		AGENCY (CAST IN MARKS) U. S. C. E.	
LATITUDE 39-54-39.12243		LONGITUDE 75-12-56.13256		DATUM NAD 27	
(NORTHING)(EASTING) (FT) 528 247.19 * (M)		(EASTING)(NORTHING) (FT) 186 274.66 * (M)		GRID AND ZONE Delaware River Grid	
(NORTHING)(EASTING) (FT) 220633.46218 (M)		(EASTING)(NORTHING) (FT) 2679478.49646 (M)		GRID AND ZONE PA SOUTH 3702	
TO OBTAIN		GRID AZIMUTH, ADD		TO THE GEODETIC AZIMUTH	
TO OBTAIN		GRID AZ. (ADD)(SUB.)		TO THE GEODETIC AZIMUTH	
OBJECT	AZIMUTH <del>GEODETIC</del> (MAGNETIC)	BACK AZIMUTH	GEOD. DISTANCE (METERS) (FEET)	GRID DISTANCE <del>GEODETIC</del> (FEET)	

Station SEWER 2 1966 is located on west bank of Schuylkill River about 5,800 feet below Passyunk Avenue Bridge, over top of a large concrete sewer opposite Yankee Point.

Reference #1 is a crow foot cut in concrete headwall of sewer. Center is 8.28 feet east of station.

Reference #2 is a crow foot cut in concrete headwall of sewer. Center is 5.37 feet south of station.

Recovered 14 Dec. 1973 by W. Werner



\* Coordinates changed as per Traverse in 1984 - Fld Bk 6-112

DA FORM 1959

REPLACES DA FORMS 1959 AND 1960, 1 FEB 57, WHICH ARE OBSOLETE.

DESCRIPTION OR RECOVERY OF HORIZONTAL CONTROL STATION (TM 5-237)

DACW61-00-B-0013



13 May 85 16 Aug 83 5 Dec 80

COUNTRY U. S. A.	TYPE OF MARK Bronze Disc	STATION RGE 20 b 1966	
PROVINCE OR STATE Pennsylvania	STAMPING ON MARK RGE 20 b 1966	ELEVATION 10.94 (FT)	
MUNICIPALITY Philadelphia	AGENCY (Cast in Mark) U. S. C. of E.	DATUM Schuylkill River	
LINE	ESTABLISHED BY (Agency) U. S. C. of E.	EST. BY C&E Fld Bk 6-112	ADDED DATE 27 Jan 82
LATITUDE	LONGITUDE	DATUM	
NORTHING 532 176.34 (FT)	EASTING 189 504.15 (FT)	GRID AND ZONE Delaware River Grid	
NORTHING 224655.45390 (M)	EASTING 2682591.80426 (M)	GRID AND ZONE PA SOUTH 3702	

Station RGE #20 b 1966 is a standard C. of E. disk in concrete monument. It is located on the north bank of the Schuylkill River appx. on the centerline of RGE #20, extended north at fireboat #3 Station, up-stream from Passyunk Avenue Bridge.

Reference #1 is a + cut in the outshore side of steel mooring post, 15.94 feet east of station.

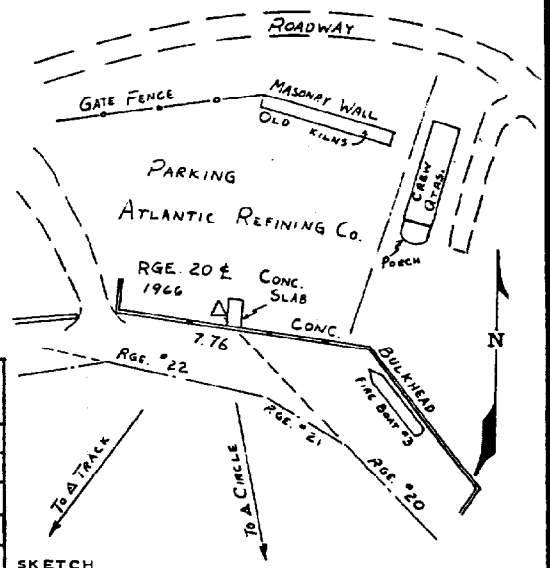
Reference #2 is a 1/4 inch drill hole in the centerline of an 18 inch concrete bulkhead, which is 7.76 feet south of station.

Reference #3 is a + cut in outshore side of concrete filled steel mooring post, 30.89 feet west of station.

Reference #4 is a white witness post in line with west Trans-mission Tower and 4 feet inshore of monument.

Recovered 6 Aug 83 by SJF

OBJECT	AZIMUTH 0 1 2	DISTANCE



DA FORM 1958

REPLACES DA FORM 1958, 1 FEB 57, WHICH IS OBSOLETE.

DESCRIPTION OR RECOVERY OF BENCH MARK (TM 5-237)

DACW61-00-B-0013

29 Sep 83

Schuylkill River, PA

5 Feb 82

12.68

COUNTRY U. S. A.	TYPE OF MARK Bronze Disk	STATION REAR 1966	
PROVINCE OR STATE Pennsylvania	STAMPING ON MARK REAR 1966	ELEVATION 12.68 (FT)	
MUNICIPALITY Philadelphia	AGENCY (Cast in Mark) U. S. C. E.	DATUM Schuylkill River	
LINE	ESTABLISHED BY (Agency) U. S. C. E.	EST. BY C of E	ORDER
LATITUDE 39-53-25.56227	LONGITUDE 75-11-38.01699	DATUM NA 27	
NORTHING 520 801.26 (FT)	EASTING 192 359.64 (M)	GRID AND ZONE Delaware River Grid	
NORTHING 213368.56563 (FT)	EASTING 2685778.82203 (M)	GRID AND ZONE PA SOUTH 3702	

Station REAR 1966 is a standard U. S. C. E. bronze disk, set flush with top of wharf on east side of Schuylkill River in U. S. Navy Yard. Station is located in vicinity of second angle point in concrete bulkhead west of vertical lift bridge in Navy Yard. Station is approximately 290 feet west of Schuylkill River Rear Light.

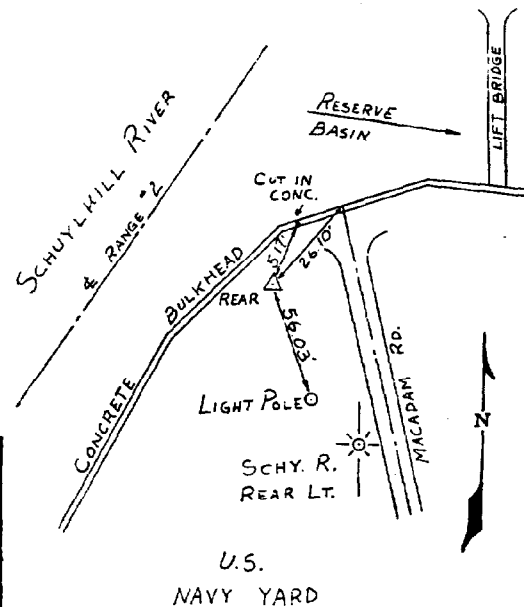
Reference #1 is centerline of macadam road extended to intersect at bulkhead, which is 26.10 feet northeast of station.

Reference #2 is a triangle cut in top of concrete whaler at face of bulkhead, which is 5.17 feet northeast of station.

Reference #3 is P. K. nail in Light pole (5 P. C. r No. 7) 1 foot above ground. It is 56.03 feet southeast of station.

Recovered 14 Dec. 1973 by W. Werner

Elev. Established ~~2 Feb 82~~ FID BL 6-112



OBJECT	AZIMUTH	DISTANCE

SKETCH

DA FORM 1958

1 OCT 64

REPLACES DA FORM 1958, 1 FEB 57, WHICH IS OBSOLETE.

DESCRIPTION OR RECOVERY OF BENCH MARK  
(TM 5-237)

DACW61-00-B-0013

# Schuylkill River, Pa 13 May 85 5 Dec 80

COUNTRY U. S. A.	TYPE OF MARK Bronze Disk	STATION WENZELL - 2 - 66	
LOCALITY Phila., Pa.	STAMPING ON MARK WENZELL 2 - 66	AGENCY (CAST IN MARKS) U. S. C. E.	ELEVATION (FT) 7.98
LATITUDE	LONGITUDE	DATUM	DATUM Corps of Engrs. Schuylkill River
(NORTHING)(EASTING) (FT) 529 311.22 (M)	(EASTING)(NORTHING) (FT) 189 044.23 (M)	GRID AND ZONE Delaware River Grid	ESTABLISHED BY (AGENCY) C of E FID BL 6-112
(NORTHING)(EASTING) (FT) 221778.06142 (M)	(EASTING)(NORTHING) (FT) 2682215.85282 (M)	GRID AND ZONE PA SOUTH 3702	DATE 20 JAN 70

TO OBTAIN	GRID AZIMUTH, ADD	TO THE GEODETIC AZIMUTH
TO OBTAIN	GRID AZ. (ADD)(SUB.)	TO THE GEODETIC AZIMUTH

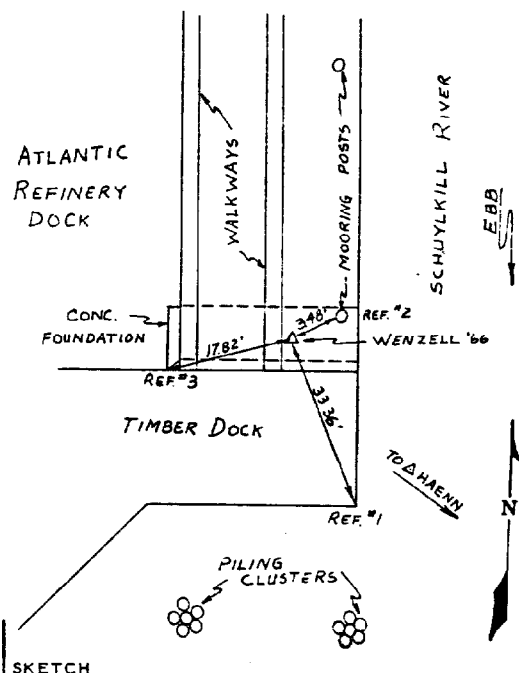
OBJECT	AZIMUTH <del>TO OBJECT FROM</del> <del>TO OBJECT FROM</del> TO OBJECT FROM	BACK AZIMUTH	GEOD. DISTANCE (METERS) (FEET)	GRID DISTANCE <del>TO OBJECT FROM</del> (FEET)

Station WENZELL - 2 - 66 is a standard bronze disk, marked WENZELL 2 - 66. Station is on the lower end of Atlantic Refinery Dock approximately 35 feet upstream from lower corner of dock on west side of river, and approximately 2,500 feet below Passyunk Bridge.

Reference #1 is a bolt on lower corner of dock on caplog, which is 33.36 feet southeast of station.

Reference #2 is cross cut on mooring post, which is 3.48 feet northeast of station.

Reference #3 is southwest corner of concrete foundation supporting dock.



DA FORM 1959  
1 OCT 64

REPLACES DA FORMS 1959  
AND 1960, 1 FEB 57, WHICH  
ARE OBSOLETE.

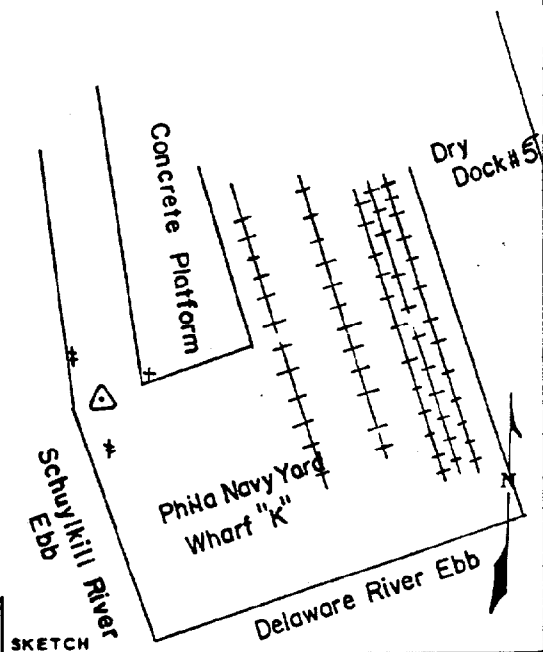
DESCRIPTION OR RECOVERY OF HORIZONTAL CONTROL STATION  
(TM 5-237)

DACW61-00-B-0013

COUNTRY U. S. A.		TYPE OF MARK Standard Bronze Disk		STATION -- DRY DOCK 1976	
LOCALITY Philadelphia, PA		STAMPING ON MARK DRY DOCK 76		AGENCY (CAST IN MARKS) Corps of Engineers	
LATITUDE		LONGITUDE		ELEVATION (FT) 12.52	
DATUM Schuylkill River		DATUM		DATUM	
(NORTHING)(EASTING) (FT) 519 126.97		(EASTING)(NORTHING) (FT) 192 411.22		GRID AND ZONE Delaware River 1939	
(NORTHING)(EASTING) (FT) 211696.46622		(EASTING)(NORTHING) (FT) 2685879.34693		GRID AND ZONE PA SOUTH 3702	
TO OBTAIN		GRID AZIMUTH, ADD		TO THE GEODETIC AZIMUTH	
TO OBTAIN		GRID AZ. (ADD)(SUB.)		TO THE GEODETIC AZIMUTH	
OBJECT	AZIMUTH OR DIRECTION (GEODETIC)(GRID) (MAGNETIC)	BACK AZIMUTH	GEOD. DISTANCE (METERS) (FEET)	GRID DISTANCE (METERS) (FEET)	

The station is located in the State of Pennsylvania, City of Philadelphia at the Philadelphia Navy Yard. It is near the confluence of the Schuylkill and Delaware Rivers on Wharf "K" which is the downstream side of drydock #5. It is marked by a standard bronze disk set flush in the concrete top of the wharf at the first elbow in the bulkhead, approximately 400' inshore from the Delaware River on the Schuylkill River side of the wharf.

It is 44.38' northwest of a X-cut on top of a 30" long cleat, 36.75' southwest of a X-cut in the corner of a 1' high concrete platform; 11.15' southeast of a X-cut on top of a 30" long cleat, 3.00' east of the outshore edge of the 1' high curbing on the Schuylkill River side.



DA FORM 1959

REPLACES DA FORMS 1959 AND 1960, 1 FEB 57, WHICH ARE OBSOLETE.

DESCRIPTION OR RECOVERY OF HORIZONTAL CONTROL STATION

For use of this form, see TM 5-237; the proponent agency is U.S. Continental Army Command.

DACW61-00-B-0013

29 Sep 83

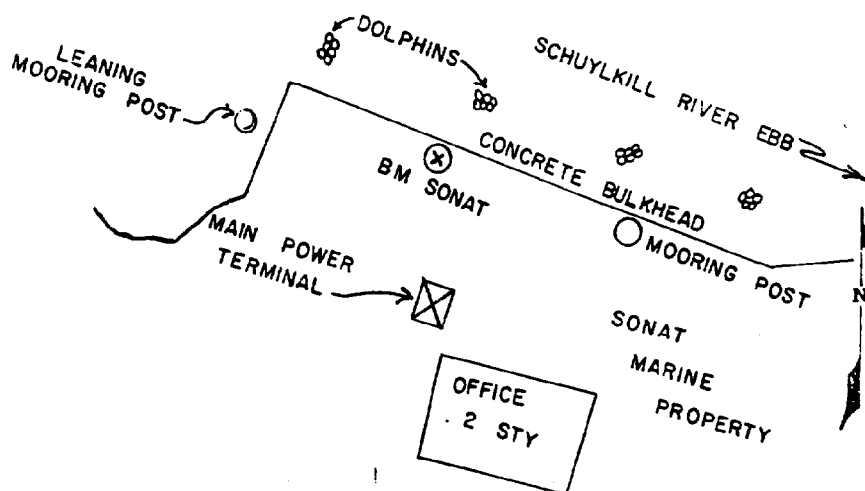
5 Feb 82

15 Aug 83

COUNTRY USA	TYPE OF MARK Painted X-cut Orange	STATION B.M. SONAT, 1983	
PROVINCE OR STATE Pennsylvania	STAMPING ON MARK	ELEVATION 14.63 (FT)	
MUNICIPALITY Philadelphia	AGENCY (Cast in Mark)	DATUM Schuylkill River	
LINE	ESTABLISHED BY (Agency)	EST. BY Corps of Engineers	ORDER
LATITUDE	LONGITUDE	DATUM	
NORTHING (FT) (M)	EASTING	GRID AND ZONE	
NORTHING (FT) (M)	EASTING	GRID AND ZONE	

B.M. SONAT is located on the southside of the Schuylkill River on the property of the ~~Sonot~~ Marine, approximately 2000 feet downstream of the George C. Platt Memorial Bridge. *↳ Mas: trans*

The B.M. is marked by a X-cut (painted orange) in top of steel mooring post that is approximately 115 feet downstream of the upstream outshore corner of concrete bulkhead. It is also approximately 40 feet outshore of outshore upstream corner of main power terminal junction boxes and is 2 feet inshore of concrete bulkhead.



DA FORM 1958

1 OCT 64

REPLACES DA FORM 1958, 1 FEB 57,  
WHICH IS OBSOLETE.DESCRIPTION OR RECOVERY OF BENCH MARK  
(TM 5-237)

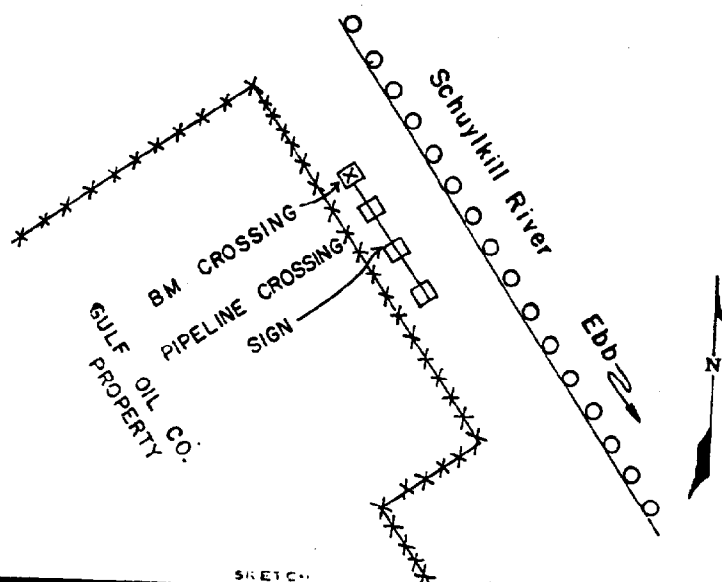
DACW61-00-B-0013

15 Aug 83

COUNTRY USA	TYPE OF MARK X-CUT Painted Orange	STATION B.M. CROSSING, 1983	
PROVINCE OR STATE Pennsylvania	STAMPING ON MARK	ELEVATION 10.40 (FT) (M)	
MUNICIPALITY Philadelphia	AGENCY (Cast In Mark)	DATUM Schuylkill River	
LINE	ESTABLISHED BY (Agency)	EST. BY Corps of Engineers	ORDER
LATITUDE	LONGITUDE	DATUM	
NORTHING (FT) (M)	EASTING	GRID AND ZONE	
NORTHING (FT) (M)	EASTING	GRID AND ZONE	

B.M. "CROSSING" is located on the west bank of the Schuylkill River, approximately 500 feet upstream of the George C. Platt Memorial Bridge. It is located on Gulf Oil property, just outside fenced-in area. To gain access to B.M., utilize access roads through Gulf Oil Co., or Esso Oil Co. and drive downstream from Esso Oil along railroad tracks to Gulf Oil Co. property, B.M. is also approximately 300 feet outshore from Kingo Torch and is accessible directly by boat. Station is marked by a X-cut in steel footplate on farthest upstream concrete footing for upstream pipeline crossing sign. X-cut is painted orange.

The B.M. is approximately 115 feet upstream from A MINGO-3-1983 (which is aluminum capped rod), 21 feet downstream from upstream outshore corner of fence of Gulf Oil property and 10 feet inshore from old wooden bulkhead.



DA FORM 1958  
1 OCT 64

REPLACES DA FORM 1958, 1 FEB 57,  
WHICH IS OBSOLETE.

DESCRIPTION OR RECOVERY OF BENCH MARK  
(TM 5-237)

DACW61-00-B-0013

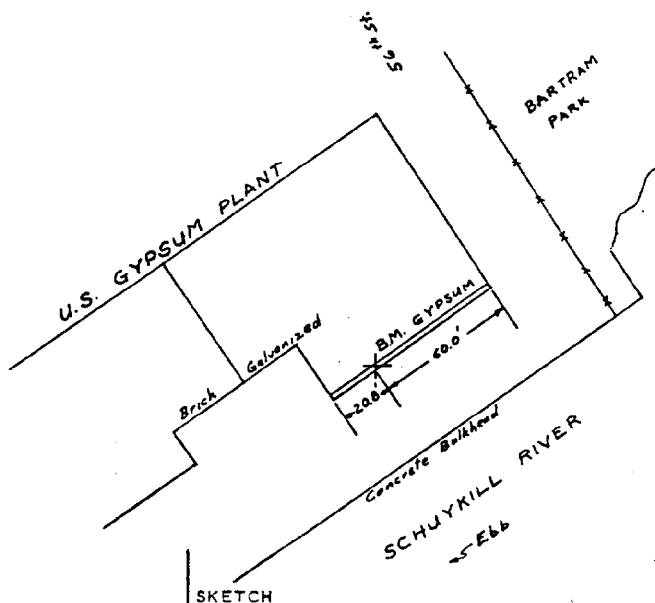
17 FEB 1977

COUNTRY U. S. A.		TYPE OF MARK Square Cut		STATION B. M. GYPSUM	
LOCALITY Philadelphia, Pa.		STAMPING ON MARK		AGENCY (CAST IN MARKS)	
LATITUDE		LONGITUDE		DATUM	
(NORTHING)(EASTING) (FT) (M)		(EASTING)(NORTHING) (FT) (M)		GRID AND ZONE	
(NORTHING)(EASTING) (FT) (M)		(EASTING)(NORTHING) (FT) (M)		GRID AND ZONE	
				ELEVATION 8.896 (FT) (M)	
				DATUM Schuylkill River ESTABLISHED BY (AGENCY)	
				DATE	
				ORDER	

TO OBTAIN	GRID AZIMUTH, ADD	TO THE GEODETIC AZIMUTH
TO OBTAIN	GRID AZ. (ADD)(SUB.)	TO THE GEODETIC AZIMUTH

OBJECT	AZIMUTH OR DIRECTION (GEODETIC)(GRID) (MAGNETIC)	BACK AZIMUTH	GEOD. DISTANCE (METERS) (FEET)	GRID DISTANCE (METERS) (FEET)

B. M. GYPSUM is a square cut in concrete coping on river side of building of U. S. Gypsum Co. Plant on the west bank of the Schuylkill River. It is just upstream from a door and 20.8 ft. from lower end of building, 60.0 ft. from upper end of building and 16.0 ft. from the outer face of concrete bulkhead.



DA FORM 1959  
1 OCT 64

REPLACES DA FORMS 1959  
AND 1960, 1 FEB 57, WHICH  
ARE OBSOLETE.

DESCRIPTION OR RECOVERY OF HORIZONTAL CONTROL STATION  
(TM 5-237)

DACW61-00-B-0013





CENTERLINE AND EDGE COORDINATES  
AND CHANNEL SKETCHES



Reg. to: army corps

File Name: B:\SKILLSDG.DAT

Job: SCHUYLKILL RIVER PROJECT

CENTERLINE AND EDGE COORDINATES

COORDINATES IN NAD 83 STATE PLANE-PA SOUTH-U.S.FOOT

By: GEORGE F. GRIFFITH

Point	Direction	Distance	Northing	Easting	Elevation
List					
1	0+000.00 CENTERLINE		209701.66859	2684795.85567	0.000
2	1+972.11 CENTERLINE		211566.95782	2685436.25750	0.000
3	4+015.59 CENTERLINE		213610.38061	2685415.62155	0.000
4	5+090.38 CENTERLINE		214322.02847	2684610.14655	0.000
5	5+745.95 CENTERLINE		214569.09125	2684002.87080	0.000
6	7+565.68 CENTERLINE		214739.98128	2682191.12317	0.000
7	8+867.43 CENTERLINE		215346.81715	2681039.42613	0.000
8	10+763.60 CENTERLINE		216835.43954	2679864.85622	0.000
9	11+670.34 CENTERLINE		217684.93391	2679547.74080	0.000
10	13+581.82 CENTERLINE		219584.86450	2679337.59180	0.000
11	14+152.26 CENTERLINE		220149.32682	2679420.04584	0.000
12	14+434.52 CENTERLINE		220374.34097	2679590.46445	0.000
13	14+738.09 CENTERLINE		220521.14779	2679856.18401	0.000
14	15+149.07 CENTERLINE		220574.34159	2680263.71546	0.000
15	16+023.84 CENTERLINE		220496.62125	2681135.04758	0.000
16	16+480.14 CENTERLINE		220560.53400	2681586.86632	0.000
17	16+979.88 CENTERLINE		220843.36101	2681998.88551	0.000
18	17+327.90 CENTERLINE		221137.74145	2682184.53246	0.000
19	20+068.89 CENTERLINE		223675.94431	2683219.35374	0.000
20	20+487.80 CENTERLINE		224078.87045	2683104.70896	0.000
21	20+807.93 CENTERLINE		224317.86605	2682891.71349	0.000
22	21+053.00 CENTERLINE		224455.09808	2682688.65753	0.000
23	21+412.60 CENTERLINE		224501.87063	2682332.10738	0.000
24	22+665.62 CENTERLINE		224293.15027	2681096.55744	0.000
25	23+029.93 CENTERLINE		224400.15268	2680748.30992	0.000
26	23+592.32 CENTERLINE		224774.13384	2680328.27273	0.000
27	24+115.54 CENTERLINE		225244.70122	2680099.51930	0.000
28	24+841.58 CENTERLINE		225970.61125	2680085.44682	0.000
29	25+456.58 CENTERLINE		226568.10790	2680231.18268	0.000
30	26+821.96 CENTERLINE		227810.11626	2680798.41236	0.000
31	28+634.47 CENTERLINE		229349.55815	2681755.19084	0.000
32	29+213.25 CENTERLINE		229900.91087	2681931.26792	0.000
33	30+820.01 CENTERLINE		231504.54765	2682031.78959	0.000

SURVEY 4-930609-4-0609  
Reg. to: army corps  
File Name: B:\SKILLSDG.DAT

08-25-1994 1:35 PM Page 2

Job: SCHUYLKILL RIVER PROJECT  
CENTERLINE AND EDGE COORDINATES  
COORDINATES IN NAD 83 STATE PLANE-PA SOUTH-U.S.FOOT

By: GEORGE F. GRIFFITH

Point	Direction	Distance	Northing	Easting	Elevation
34	31+446.71 CENTERLINE		232131.16472	2682042.47082	0.000
35	31+902.01 CENTERLINE		232498.22548	2682311.86858	0.000
36	32+392.65 CENTERLINE		232726.04531	2682746.42168	0.000
37	32+863.66 CENTERLINE		232792.71197	2683212.70234	0.000
38	33+199.41 CENTERLINE		232677.88000	2683528.21180	0.000
39	33+962.69 CENTERLINE		232383.33000	2684232.17283	0.000
40	WEST EDGE		209475.24978	2684506.65114	0.000
41	EAST EDGE		209928.09019	2685085.05971	0.000
42	EAST EDGE		211534.56665	2685636.59820	0.000
43	WEST EDGE		211599.34537	2685235.90771	0.000
44	K WEST EDGE		213243.29699	2685219.31559	0.000
45	EAST EDGE		213701.36062	2685614.72336	0.000
46	WEST EDGE		213472.75643	2685114.45613	0.000
47	K WEST EDGE		213702.21761	2685009.59747	0.000
48	WEST EDGE		214149.59584	2684503.23950	0.000
49	EAST EDGE		214494.46350	2684717.05300	0.000
50	WEST EDGE		214372.67477	2683954.79136	0.000
51	EAST EDGE		214765.39612	2684050.97253	0.000
52	K WEST EDGE		214398.47699	2683681.37023	0.000
53	K EAST EDGE		214796.71707	2683718.94273	0.000
54	K WEST EDGE		214485.83786	2683287.81423	0.000
55	K EAST EDGE		214784.51146	2683316.00266	0.000
56	WEST EDGE		214596.51853	2682114.81337	0.000
57	EAST EDGE		214883.45387	2682267.45273	0.000
58	WEST EDGE		215204.76258	2680960.44300	0.000
59	EAST EDGE		215488.88603	2681118.40790	0.000
60	WEST EDGE		216760.96529	2679732.54258	0.000
61	EAST EDGE		216909.91275	2679997.16920	0.000
62	WEST EDGE		217649.92525	2679400.69800	0.000
63	EAST EDGE		217719.94112	2679694.78382	0.000
64	WEST EDGE		219568.36652	2679188.49580	0.000
65	EAST EDGE		219601.35936	2679486.68876	0.000
66	WEST EDGE		220219.12758	2679253.37880	0.000
67	EAST EDGE		220079.52646	2679586.71300	0.000

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Reg. to: army corps  
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Job: SCHUYLKILL RIVER PROJECT  
CENTERLINE AND EDGE COORDINATES  
COORDINATES IN NAD 83 STATE PLANE-PA SOUTH-U.S.FOOT

By: GEORGE F. GRIFFITH

Point	Direction	Distance	Northing	Easting	Elevation
68	WEST EDGE		220509.57868	2679473.35784	0.000
69	EAST EDGE		220239.11222	2679707.57247	0.000
70	WEST EDGE		220690.39194	2679800.62006	0.000
71	EAST EDGE		220351.91918	2679911.75664	0.000
72	WEST EDGE		220723.74596	2680277.04341	0.000
73	EAST EDGE		220424.94170	2680250.38818	0.000
74	WEST EDGE		220646.02904	2681148.37484	0.000
75	EAST EDGE		220347.21590	2681121.72020	0.000
76	WEST EDGE		220728.06764	2681521.68778	0.000
77	EAST EDGE		220393.00680	2681652.04536	0.000
78	WEST EDGE		220967.23057	2681870.10371	0.000
79	EAST EDGE		220719.49087	2682127.66715	0.000
80	WEST EDGE		221194.37031	2682045.63307	0.000
81	EAST EDGE		221081.11326	2682323.43219	0.000
82	WEST EDGE		223759.76318	2683091.53413	0.000
83	EAST EDGE		223592.13222	2683347.17387	0.000
84	WEST EDGE		223974.24307	2683030.50449	0.000
85	EAST EDGE		224183.48471	2683178.91370	0.000
86	WEST EDGE		224223.05030	2682808.77832	0.000
87	EAST EDGE		224412.68533	2682974.64857	0.000
88	WEST EDGE		224335.00432	2682643.11898	0.000
89	EAST EDGE		224575.19194	2682734.19599	0.000
90	WEST EDGE		224386.57572	2682249.95111	0.000
91	EAST EDGE		224617.16180	2682414.25385	0.000
92	WEST EDGE		224181.32872	2681034.92005	0.000
93	EAST EDGE		224404.98560	2681158.19642	0.000
94	WEST EDGE		224288.67170	2680685.53038	0.000
95	EAST EDGE		224511.63617	2680811.07937	0.000
96	WEST EDGE		224697.22526	2680226.66537	0.000
97	EAST EDGE		224851.04526	2680429.87923	0.000
98	WEST EDGE		225187.99392	2679988.08690	0.000
99	EAST EDGE		225301.41006	2680210.94180	0.000
100	WEST EDGE		225934.19950	2679973.63125	0.000
101	EAST EDGE		226007.03881	2680197.26296	0.000

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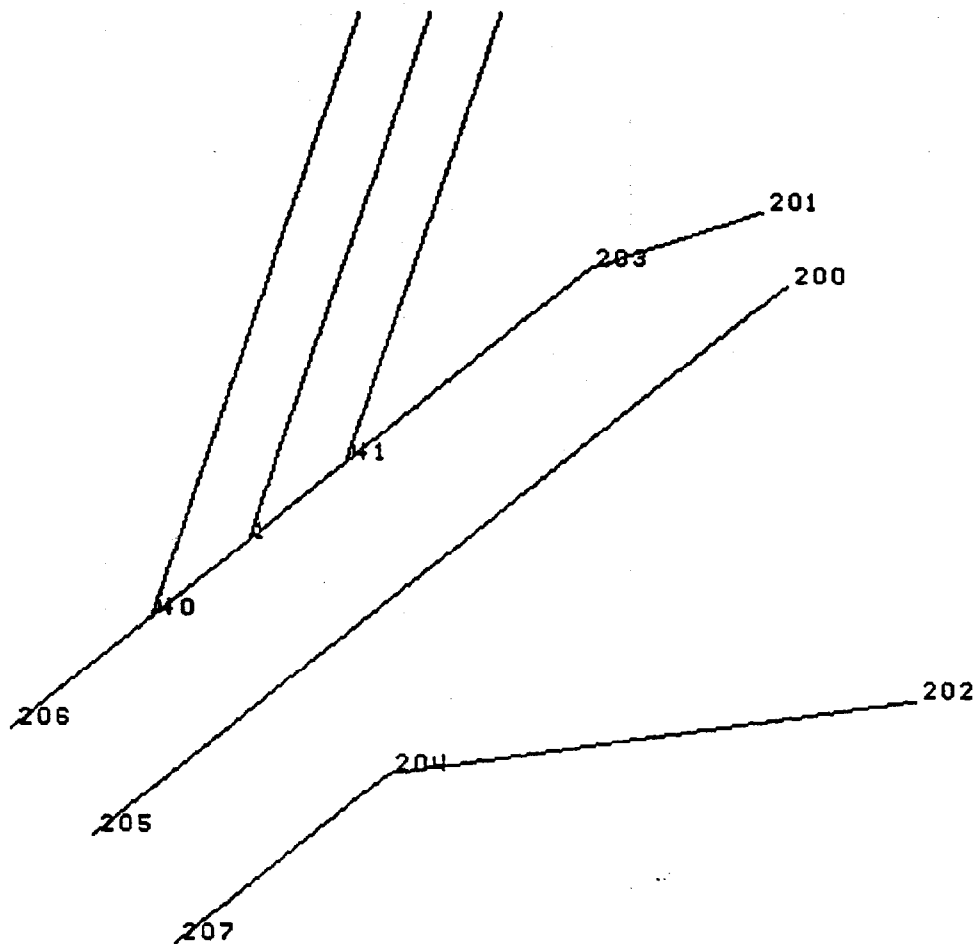
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Job: SCHUYLKILL RIVER PROJECT  
CENTERLINE AND EDGE COORDINATES  
COORDINATES IN NAD 83 STATE PLANE-PA SOUTH-U.S.FOOT

By: GEORGE F. GRIFFITH

Point	Direction	Distance	Northing	Easting	Elevation
102	WEST EDGE		226601.02035	2680136.27785	0.000
103	EAST EDGE		226535.19411	2680326.08822	0.000
104	WEST EDGE		227857.47782	2680710.09699	0.000
105	EAST EDGE		227762.75878	2680886.72835	0.000
106	3+650.52 C/L KNUCKLE		213245.28224	2685419.30889	0.000
107	EAST EDGE KNUCKLE		213247.26750	2685619.30220	0.000
108	4+380.66 C/L KNUCKLE		213852.11714	2685142.01333	0.000
109	EAST EDGE KNUCKLE		214002.01667	2685274.42918	0.000
110	6+050 C/L KNUCKLE		214597.64354	2683700.16439	0.000
111	6+450 C/L KNUCKLE		214635.20616	2683301.93199	0.000

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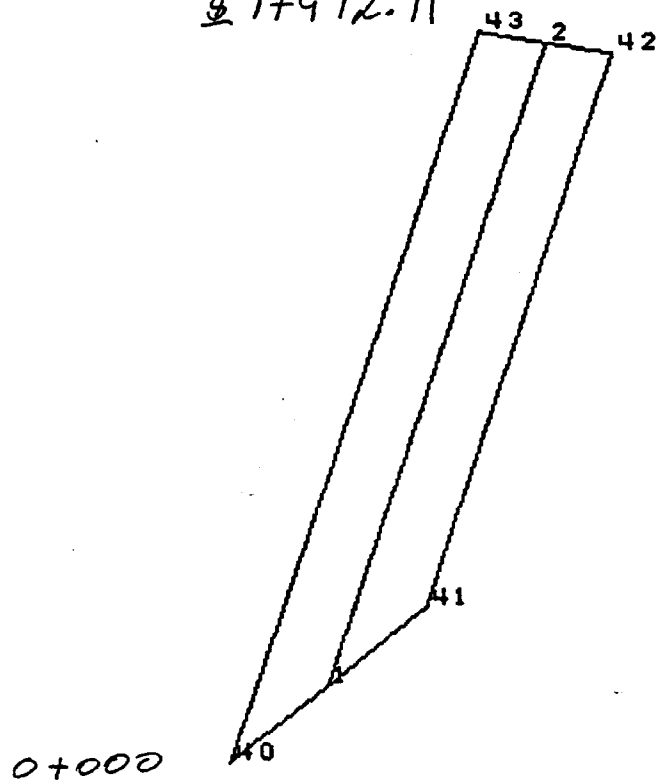
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1+972.11



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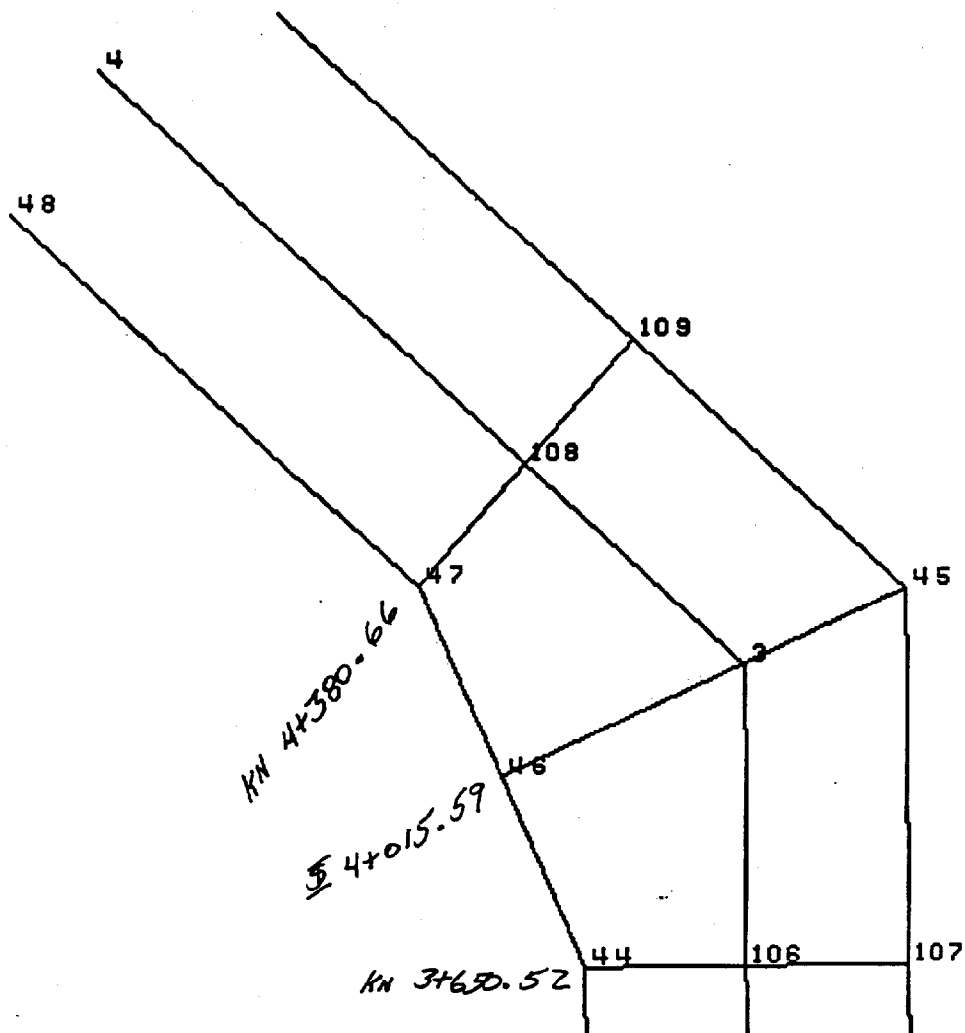
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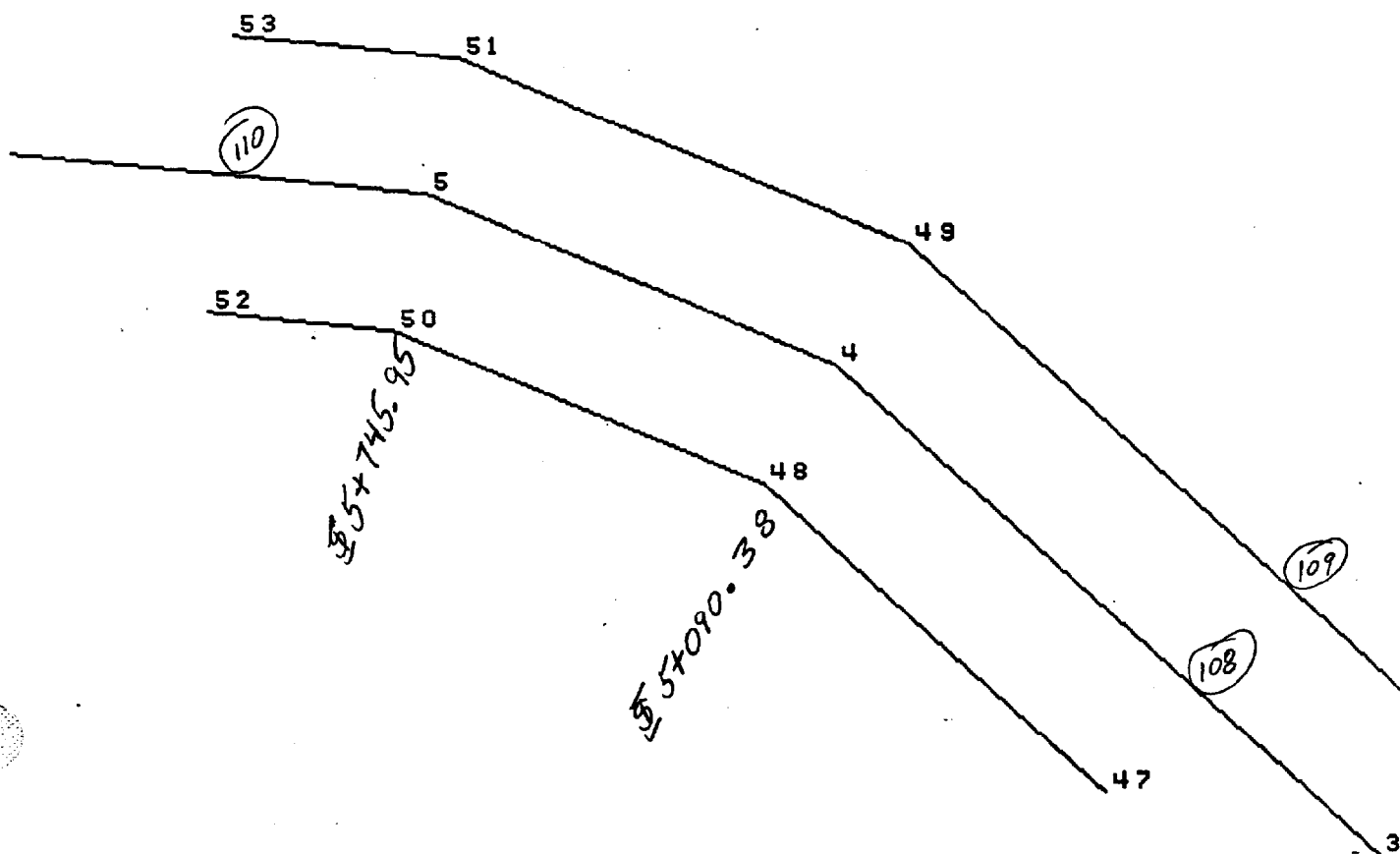


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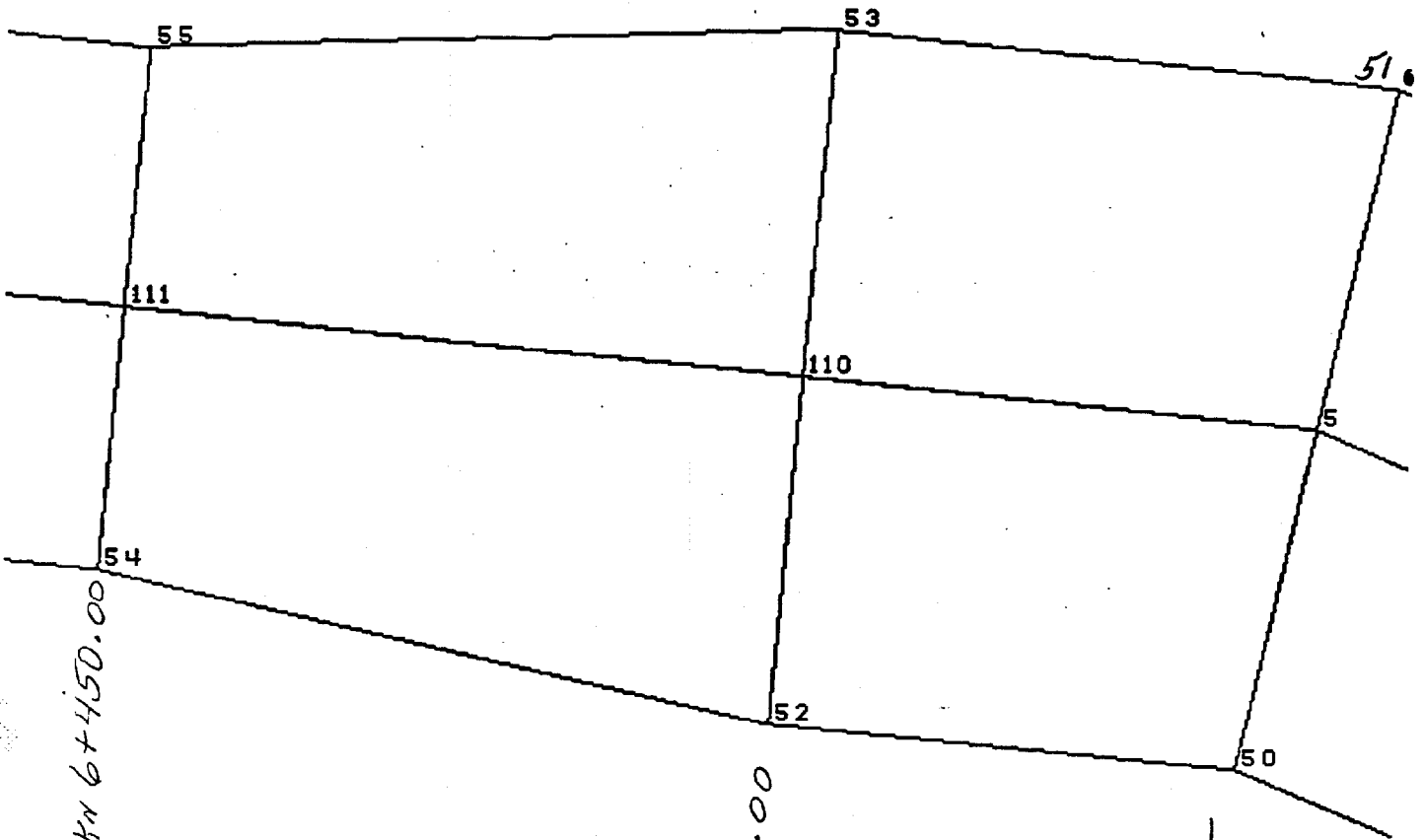
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58+867.43

7+565.68

58

7

57

5

56

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511+670.34

62

9

63

61

8

60

510+763.60

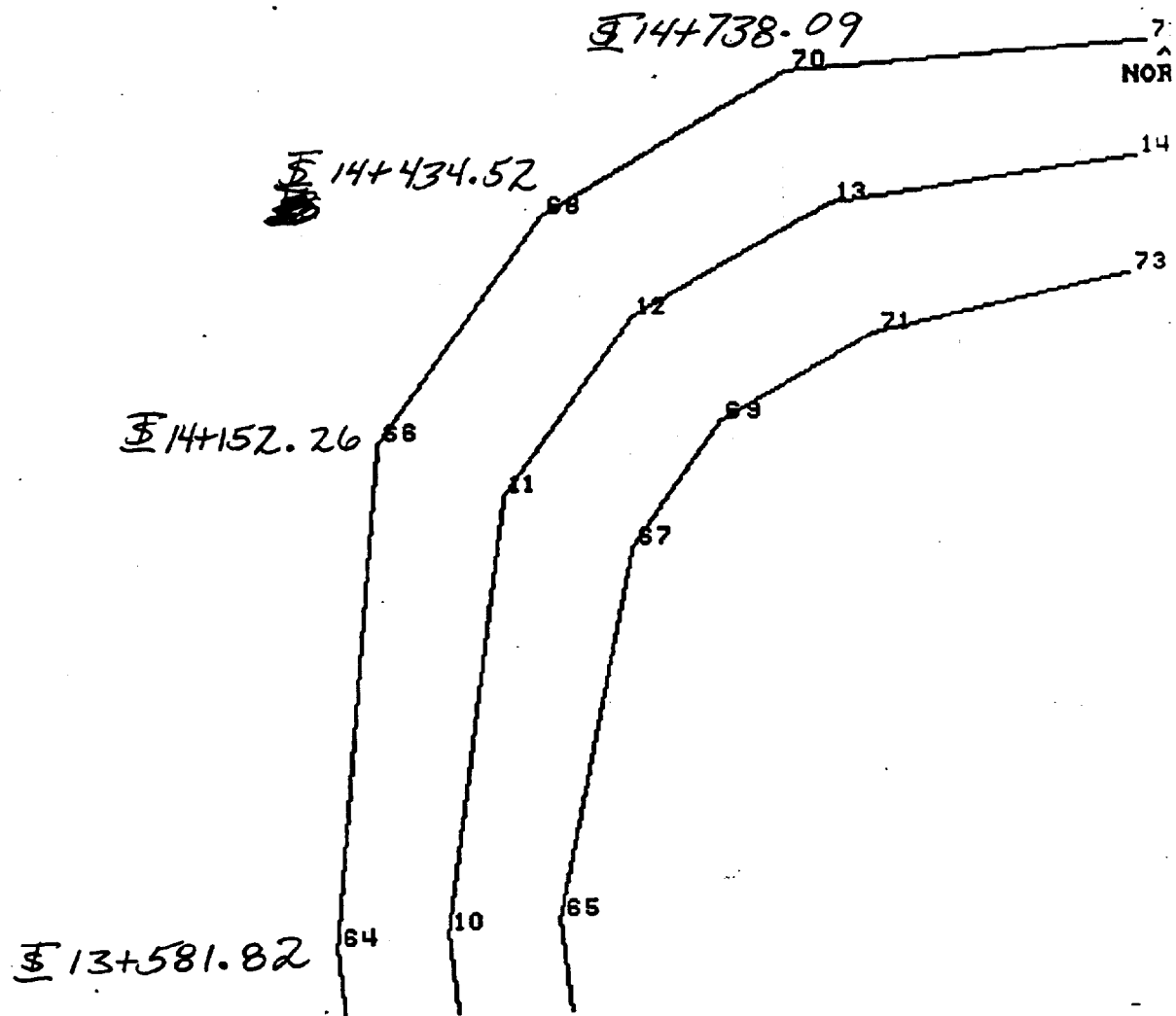
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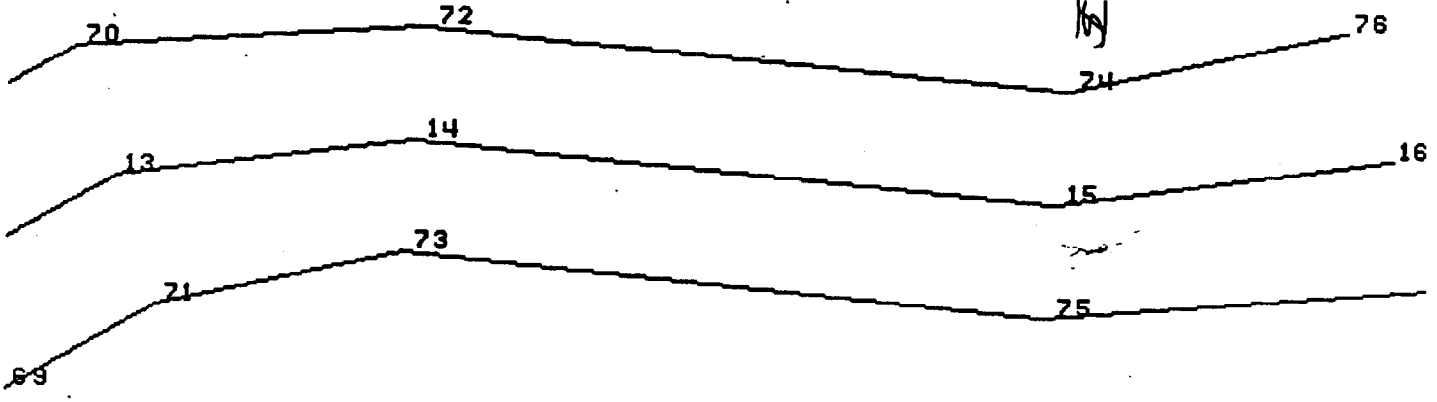
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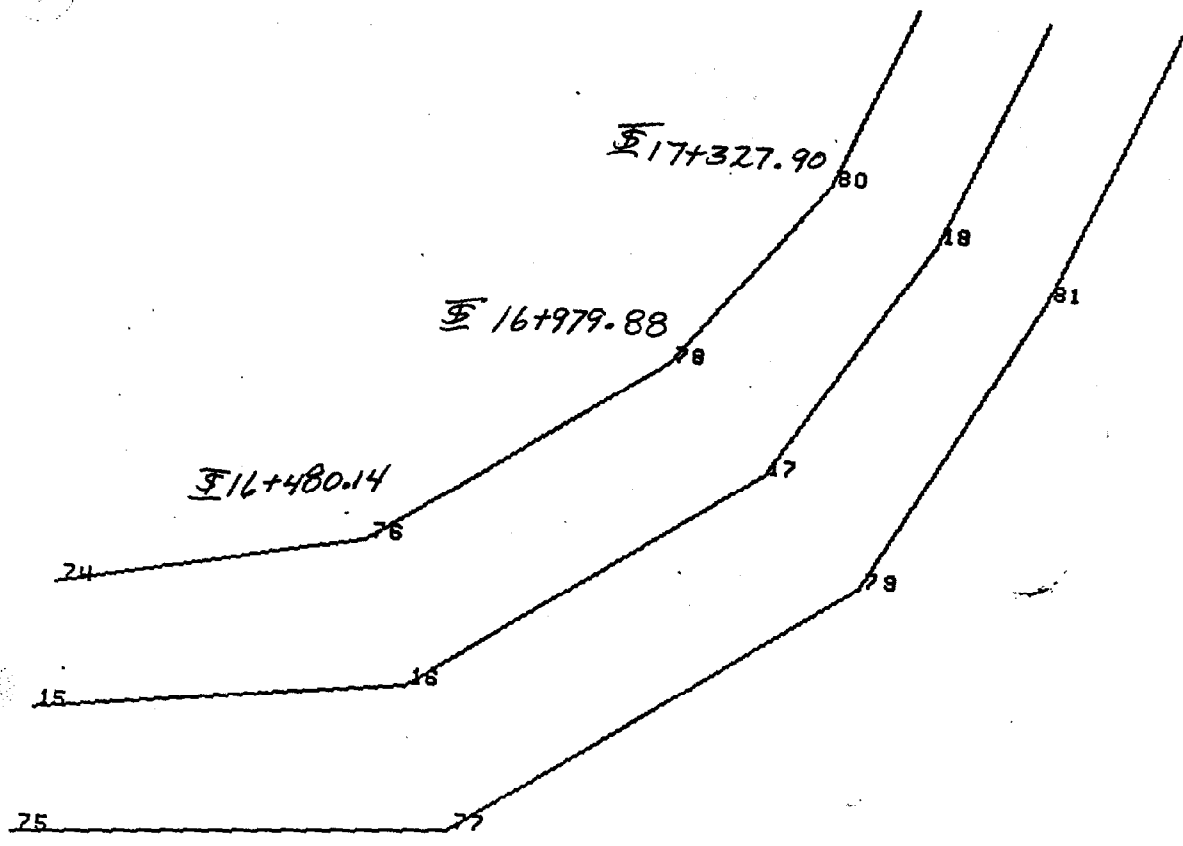
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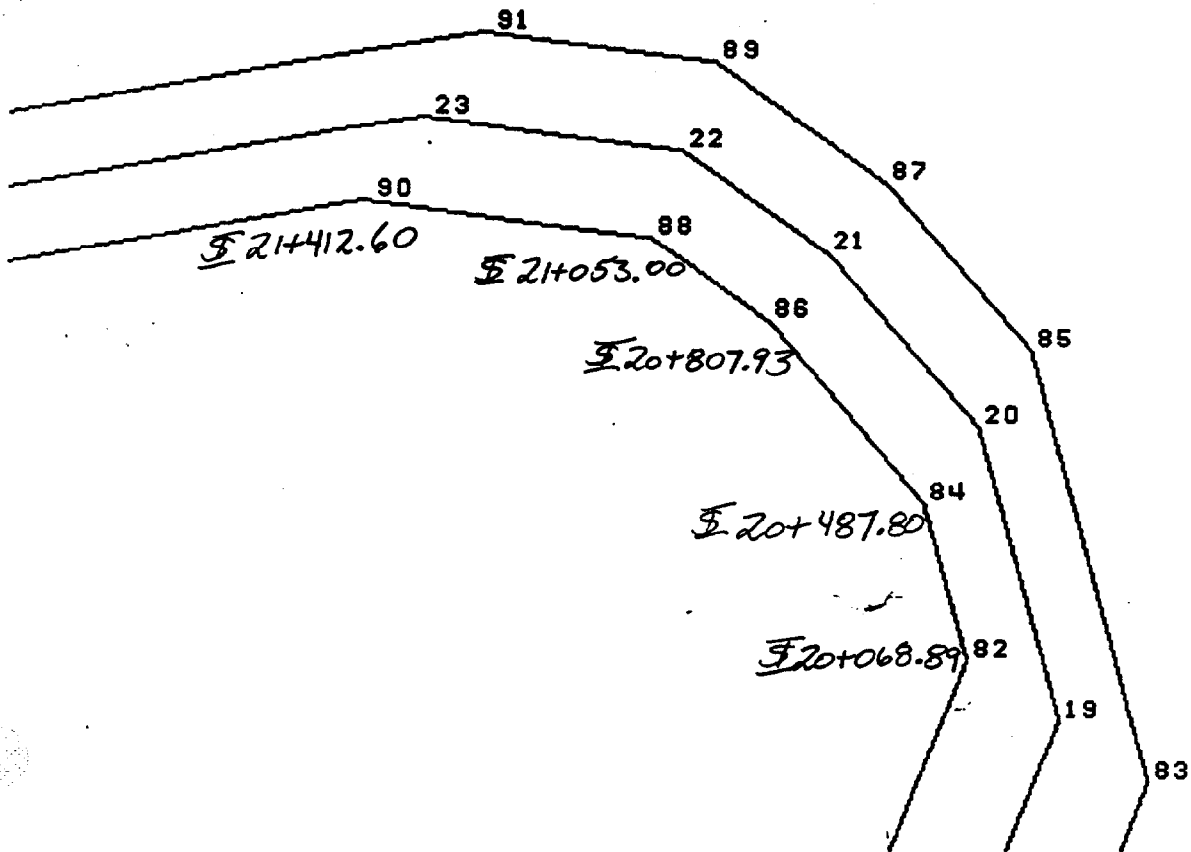
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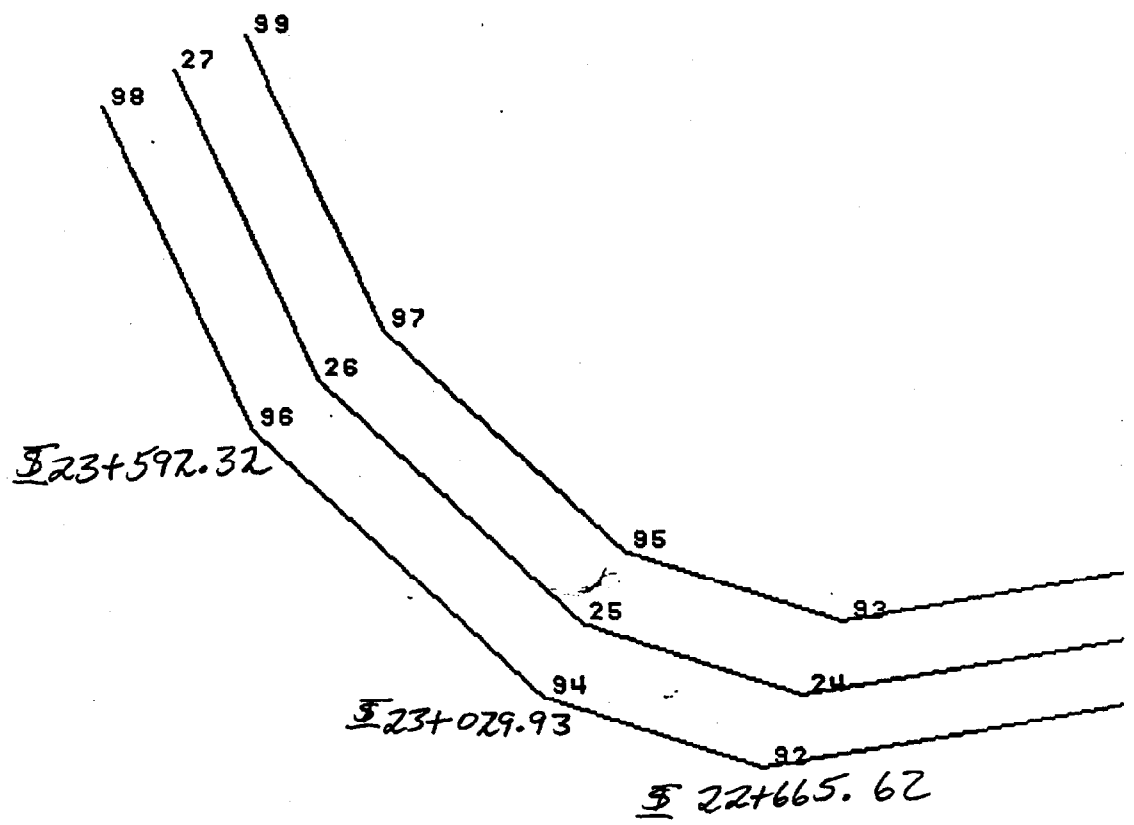


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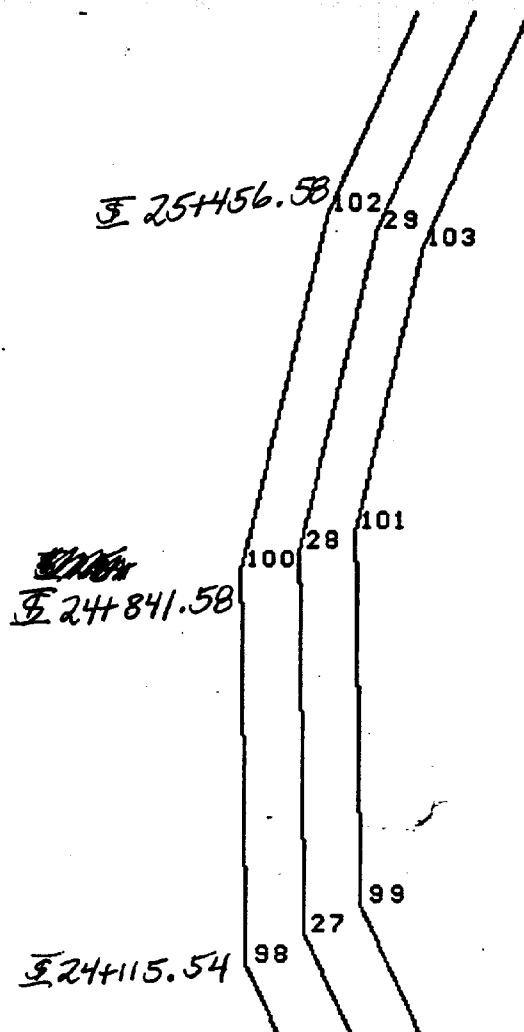
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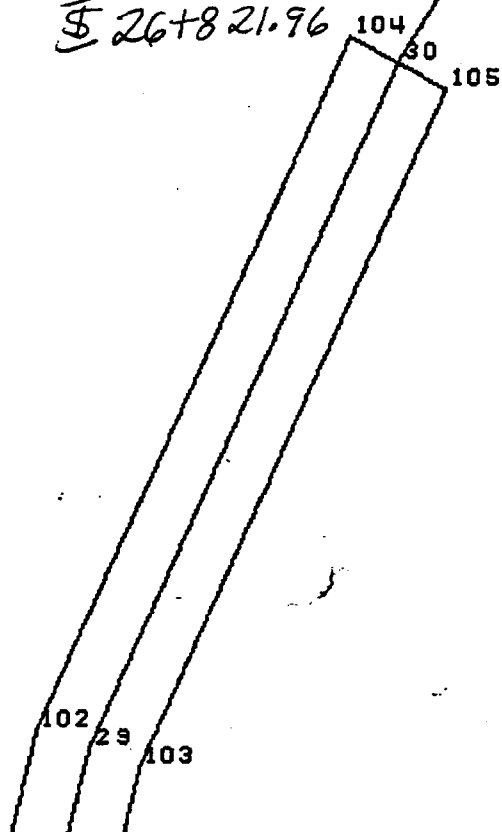
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ABSTRACT OF BOTTOM SAMPLES										DATE OF SAMPLING		SAMPLING BY	
LOCATION										DATE		DENSITY BY	
SCH. River										SCH. RA. Datum		MARTIN	
NUMBER	STATION	NORMAL DISTANCE	MACHINE SOUNDING	LEAD LINE		HARPOON DEPTH	SAMPLE RETAINED	BOTTLE DEPTH	DENSITY	REMARKS			
				LIGHT	HEAVY								
1HA	22+000	4	25.7	25.2	25.6	33.0	1 1/2		1470	UPPER HALF SAND & organic			
1HB									1210	Lower Foot Sand/mud			
1P	20+000	-75	30.0	30.0	30.1		1 PT		1655	Sand (course)			
2P	15+500	-75	35.1	35.1	35.1		1 PT		1254	organic matter, mud			
3P	12+000	75	32.7	33.0		36.0			0A94				
2HA	10+500	75	36.5	36.7	37.0	40.0	2'		1339	UPPER			
2HB									1450	Lower			
3HA	2+500	-75	32.6	33.0	33.7	38.9	1'		1228	1 Foot			



SPECIFICATIONS

MAINTENANCE DREDGING  
STA. 0+600 TO STA. 22+665

SCHUYLKILL RIVER  
MOUTH TO UNIVERSITY AVENUE  
PHILADELPHIA, PA

PROJECT TABLE OF CONTENTS

<u>SECTION NO.</u>	<u>TITLE</u>
DIVISION 1 - GENERAL REQUIREMENTS	
01040	COORDINATION FOR CONTRACTOR-FURNISHED DISPOSAL AREAS
01060	SAFETY
01090	SOURCES FOR REFERENCE PUBLICATIONS
01100	DIVING SERVICES
01300	SUBMITTAL PROCEDURES
01400	CONTRACTOR QUALITY CONTROL (CQC)
01430	ENVIRONMENTAL PROTECTION FOR DREDGING
DIVISION 2 - SITE WORK	
02880	DREDGING

(ONLY DIVISIONS 1 AND 2 ARE USED IN THESE SPECIFICATIONS)





SECTION 01040

COORDINATION FOR CONTRACTOR-FURNISHED DISPOSAL AREAS

PART 1 GENERAL

1.1 SUMMARY

This section includes the coordination requirements for any disposal areas furnished by the Contractor. The Contractor has the option of furnishing his own disposal areas for the contract work, subject to the required approvals specified herein, in lieu of the Government-furnished disposal area specified herein. The coordination requirements specified herein also pertain to any Contractor-furnished rehandling basins.

1.2 REFERENCES (Not Applicable)

1.3 GENERAL

All expenses incurred in connection with providing and making available such Contractor furnished disposal areas shall be borne by the Contractor, and all material deposited thereon, and all operations in connection therewith shall be entirely at the Contractor's risk.

1.4 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-13 Certificates

Federal/State Permits; FIO

WQ Certificates; FIO

Landowner Permission; FIO

Descriptions of Disposal Areas; FIO

The Contractor is required to obtain all applicable Federal and State approvals for Contractor furnished disposal areas. The Contractor shall furnish with his bid copies of the Federal and State permits obtained, a copy of a State Water Quality Certificate, if required, and written permission from the owners of the properties to be used for the disposal areas and access thereto. Written permission of the owners shall be assigned to the bidder and not to a subcontractor. In the event no approvals are required, the Contractor shall submit documents indicating that agency coordination has taken place. The Contractor shall also complete and submit the "Description of Disposal Areas" form, which is attached at the end of this section. All certificates shall be submitted with the bid.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 REQUIRED COORDINATION

3.1.1 Agency Approval

The Contractor shall coordinate with and submit with its bid written approval from the Federal and applicable state agencies as listed:

a. Federal Agency:

District Engineer  
U.S. Army Corps of Engineers  
Philadelphia District  
Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390

b. State Agencies:

Maryland Department of  
Natural Resources Tidewater  
Administration  
Tawes State Office Bldg.  
Annapolis, MD 21401

Delaware Department of Natural  
Resources & Enviro. Control  
89 Kings Highway  
P.O. Box 1401  
Dover, DE 19903

New Jersey Department of  
Environmental Protection  
501 East State Street  
CN 401  
Trenton, NJ 08625

Pennsylvania Department of  
Environmental Protection  
Division of Coastal Programs  
P.O. Box 8555  
Harrisburg, PA 17105-8555

3.1.2 Water Quality Certificate

Title 33 U.S.C. 1341 requires the acquisition of a Water Quality Certificate from the appropriate state water pollution control agencies to the effect that dredging and operation of any Contractor furnished disposal area will be conducted in a manner which will not violate applicable water quality standards. It is necessary, therefore, that all bids based on the use of such areas be accompanied by a Certificate from the following state agencies:

Maryland Department of  
the Environment Standards  
and Certification Division  
2500 Broening Highway  
Baltimore, MD 21224

New Jersey Department of  
Environmental Protection Division  
of Water Resources  
501 East State Street  
CN 401  
Trenton, NJ 08625-0402

Pennsylvania Department of  
Environmental Protection  
Water Quality Management  
Suite 6010  
555 North Lane  
Conshohocken, PA 19428

Delaware Department of Natural  
Resources & Enviro. Control  
Delaware Coastal Management Program  
89 Kings Highway  
P.O. Box 1401  
Dover, DE 19903

### 3.1.3 Alternate Disposal Area

If, after the award of the contract, a disposal area other than that specified herein is proposed, its acceptance will be subject to the approval of the Contracting Officer after an adjustment of the contract price, if found to be necessary by the Contracting Officer to protect the Government interest. The Contractor shall comply with all requirements for Contractor furnished disposal areas as specified herein. Substitution of disposal areas will be considered as "Value Engineering" within the meaning of the Contract Clause entitled: VALUE ENGINEERING - CONSTRUCTION.

### 3.2 MEASUREMENT AND PAYMENT

No separate payment will be made for any work specified in this section and all costs in connection therewith shall be included in the costs of all the bid items.

-- End of Section --



DESCRIPTION OF DISPOSAL AREAS

(If other than that stipulated in the Specifications)  
(To be attached to Bid Form)

---

1. AREA NO. \_\_\_\_\_

LOCATION: (Sketch attached. Marked prints of Contract Drawings may be used.)

---

---

Area= \_\_\_\_\_Acres

Volume of fill to be deposited \_\_\_\_\_cubic yards.

Name and Address of Owner\_\_\_\_\_

---

---

2. AREA NO. \_\_\_\_\_

LOCATION: (Sketch attached. Marked prints of Contract Drawings may be used.)

---

---

Area= \_\_\_\_\_Acres

Volume of fill to be deposited \_\_\_\_\_cubic yards.

Name and Address of Owner\_\_\_\_\_

---

---

The written permission of all owners of the above substituted areas is attached.



SECTION 01060

SAFETY

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by basic designation only.

U.S. ARMY CORPS OF ENGINEERS (COE)

EM 385-1-1 (1996) Safety and Health Requirements  
Manual

U.S. ARMY CORPS OF ENGINEERS (PHILADELPHIA DISTRICT)

Liberty from Accidents Program (1996) Philadelphia District Awards  
Program

1.2 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-08 Statements

Qualifications; GA; CO

Name and qualifications of the Contractor's proposed safety representative.

Accident Prevention Plan; GA; CO

An accident prevention plan, prepared by the prime Contractor for the specific work, implementing in detail the pertinent requirements of EM 385-1-1 shall be submitted for approval prior to the start of work. A suggested format for the accident prevention plan is included in EM 385-1-1, Appendix A. The plan shall be prepared for all sites and shall include, but is not limited to, the topic areas listed in Appendix A therein and the requirements of the Paragraph entitled: SAFETY AND HEALTH PROVISIONS. Each topic shall be developed in a concise manner to include management and operational aspects.

Activity Phase Hazard Analysis Plan; GA; CO

Prior to beginning each major phase of work, an activity hazard analysis (phase plan) shall be prepared by the Contractor for that phase of work and submitted for approval. A phase is defined as an operation involving a type of work presenting hazards not experienced in previous operations or where a new subcontractor or work crew is to perform work. The analysis shall address the hazards for each activity performed in the phase and shall present the procedures and safeguards necessary to eliminate the hazards or reduce the risk to an acceptable level.

## SD-09 Reports

### Safety Meeting Reports; FIO

Outline reports of all weekly and monthly safety meeting shall be submitted.

### Accident Reports; FIO

A written report for all accidents utilizing ENG FORM 3394 shall be submitted within 24 hours following such accidents.

### OSHA 200 Log; FIO

Contractor's OSHA 200 Log of Injuries shall be submitted monthly.

### Floating Plant Inspection; GA; CO

A copy of the annual inspection of all plants, not subject to Coast Guard inspection, shall be submitted prior to start of work.

## 1.3 GENERAL

Worker safety is of paramount importance. The Contractor shall comply with the Contract Clause entitled: ACCIDENT PREVENTION, EM 385-1-1, the Philadelphia District's Liberty from Accidents Program, and all other requirements as specified herein.

## PART 2 PRODUCTS (Not Applicable)

## PART 3 EXECUTION

### 3.1 SAFETY PROGRAM

EM 385-1-1 and all subsequent revisions referred to in the Contract Clause entitled: ACCIDENT PREVENTION of this contract, are hereby supplemented as follows:

a. The Contractor shall designate an employee responsible for overall supervision of accident prevention activities. Such duties shall include: (1) assuring applicable safety requirements are incorporated in work methods and (2) inspecting the work to ensure that daily safety measures and instructions are implemented and documented. The proposed safety representative's name and qualifications shall be submitted in writing for approval by the Contracting Officer. This individual shall have prior experience as a safety representative or be able to demonstrate familiarity and understanding of the safety requirements over a prescribed trial period. The safety representative shall have the authority to act on behalf of the Contractor's general management to take whatever action is necessary to assure compliance with safety requirements. The safety representative is required to be on the site when work is being performed in accordance with EM 385-1-1.

b. Prior to commencement of any work at the job site, a preconstruction safety meeting will be held between the Contractor's safety representative and the Contracting Officer to discuss the Contractor's safety program and to review the Accident Prevention Plan and Activity Phase Hazard Analysis Plan for the first phase of work.



c. Subsequent jobsite safety meetings shall be held as follows:

(1) A safety meeting shall be held at least once a month, documented with subject and attendees, for all supervisors on the project to review past activities, to plan ahead for new or changed operations and to establish safe working procedures to anticipated hazards. An outline report of each monthly meeting shall be submitted to the Contracting Officer.

(2) At least one safety meeting shall be conducted weekly, or whenever new crews begin work, by the appropriate field supervisors or foremen for all workers. An outline report of the meeting giving date, time, attendance, subjects discussed and who conducted the meeting shall be prepared and furnished to the Contracting Officer.

### 3.2 PHILADELPHIA DISTRICT LIBERTY FROM ACCIDENTS PROGRAM

The Philadelphia District Liberty from Accidents Program is hereby incorporated as part of these specifications. The Liberty from Accidents Program rewards Contractors who exceed safety standards. The program provides local and District-wide awards on a quarterly and annual basis.

a. The Contractor will be evaluated for awards and the final performance evaluation in safety on the frequency rate for the project. The frequency rate is calculated by the following equation:  $\text{frequency} = (\text{number of lost time accidents} \times 200,000) \text{ divided by the number of man-hours for the project}$ . The Contractor shall have a proactive safety plan as outlined in the Liberty from Accidents Program.

b. The Contractor evaluation procedure for the safety category shall be as follows:

RATING	CONTRACTOR FREQUENCY RATE
Outstanding	Less than or equal to 0.25.
Above Average	Greater than 0.25 but less than or equal to 0.75.
Satisfactory	Greater than 0.75 but less than or equal to 0.84.
Marginal	Greater than 0.84 but less than or equal to 1.95.
Unsatisfactory	Greater than 1.95.

Extenuating circumstances will be considered to change the safety rating in limited situations.

### 3.3 ACCIDENTS

Chargeable lost time accidents are to be investigated by both the Contractor and the Contracting Officer.

#### 3.3.1 Accident Reporting

Section II of EM 385-1-1 and the Contract Clause entitled: ACCIDENT PREVENTION are supplemented as follows. The prime Contractor shall investigate and report on ENG FORM 3394, which is provided by the Contracting Officer's Representative, all injuries to employees or to subcontractor employees that occur incidental to an operation, project, or

facility for which EM385-1-1 is applicable and all damage to property and/or equipment. Verbal notification of such accidents shall be made to the Contracting Officer within 8 hours of occurrence. A written report utilizing ENG FORM 3394 shall be submitted to the Contracting Officer within 24 hours following such accidents. The report shall include the following:

a. A description of the circumstances leading up to the accident, the cause of the accident, and corrective measures taken to prevent recurrence.

b. A description of the injury and name and location of the medical facility rendering examination and treatment.

c. A statement as to whether or not the employee was permitted to return to work after examination and treatment by the medical facility, and if not, an estimate or statement of the number of days lost from work. If there have been days lost from work, the employee must be re-examined and declared fit to resume work as of the date of the report.

### 3.4 OSHA REQUIREMENTS

#### 3.4.1 OSHA 200 Log

A copy of the Contractor's OSHA 200 Log of Injuries shall be submitted in accordance with the Paragraph entitled: SUBMITTALS.

#### 3.4.2 OSHA Inspections

The Contractor shall immediately notify the Contracting Officer when an OSHA Compliance Official (Federal or State representative) presents credentials and informs the Contractor that the workplace will be inspected for OSHA compliance. The Contractor shall also notify the Contracting Officer upon determination that an exit interview will take place upon completion of the OSHA inspection.

### 3.5 MEASUREMENT AND PAYMENT

No separate measurement or payment will be made for the work specified in this section and all costs in connection therewith shall be included in the costs of all the bid items.

-- End of Section --

SECTION 01090

SOURCES FOR REFERENCE PUBLICATIONS

PART 1 GENERAL

1.1 REFERENCES

Various publications are referenced in other sections of the specifications to establish requirements for the work. These references are identified in each section by document number, date and title. The document number used in the citation is the number assigned by the sponsoring organization, e.g.

UL 1 (1993; Rev thru Jan 1995) Flexible Metal Conduit. However, when the sponsoring organization has not assigned a number to a document, an identifying number has been assigned for convenience, e.g. UL's unnumbered 1995 edition of their Building Materials Directory is identified as UL-01 (1995) Building Materials Directory. The sponsoring organization number (UL 1) can be distinguished from an assigned identifying number (UL-1) by the dash mark (-).

1.2 ORDERING INFORMATION

The addresses of the organizations whose publications are referenced in other sections of these specifications are listed below, and if the source of the publications is different from the address of the sponsoring organization, that information is also provided. Documents listed in the specifications with numbers which were not assigned by the sponsoring organization should be ordered from the source by title rather than by number.

AMERICAN WOOD-PRESERVERS' ASSOCIATION (AWPA)

P.O. Box 286  
Woodstock, MD 21163-0286  
Ph: 410-465-3169  
Fax: 410-465-3195

CODE OF FEDERAL REGULATIONS (CFR)

Order from:  
Government Printing Office  
Washington, DC 20402  
Ph: 202-512-1800  
Fax: 202-275-7703  
Internet: <http://www.pls.com:8001/his/cfr.html>

U.S. ARMY CORPS OF ENGINEERS (COE)

Order from:  
U.S. Army Engineer Waterways Experiment Station  
ATTN: Technical Report Distribution Section, Services  
Branch, TIC  
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-- End of Section --

SECTION 01100

DIVING SERVICES

PART 1 GENERAL

1.1 GENERAL REQUIREMENTS

All diving performed under this contract shall be in strict accordance with the rules and regulations prescribed by 0910-LP-708-8000, Section 30 ( US Navy Diving Manual), 29 CFR Part 1910, Subpart T; 29 CFR Part 1915; the EM 385-1-1, and ER 385-1-86, except as modified below. A Contracting Officer's Representative, will be designated by the Contracting Officer at the Post Award Conference, to act for the Contracting Officer for all submissions, directions and/or acceptance(s) required under the specifications. There will also be an individual designated as the District Dive Coordinator

1.2 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by basic designation only.

U.S. ARMY CORPS OF ENGINEERS (COE)

EM 385-1-1	(1996) Safety and Health Requirements Manual
ER 385-1-86	(July 1994) Engineer Regulation, Government Personnel Diving Operations

CODE OF FEDERAL REGULATIONS (CFR)

29 CFR Part 1910	(1999) Occupational Safety and Health Standards
29 CFR Part 1915	(1999) Safety and Health Standards Applicable to Shipyard Employment

NAVAL SEA SYSTEMS COMMAND

0910-LP-708-8000	(Jan 1999) U.S. Navy Diving Manual, Revision 4
------------------	--

1.3 SUBMITTALS

The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES.

SD-08 Statements

Diving Operations Manual

Submit, for review, at least 15 days prior to any diving operations, two (2) copies of a Diving Operations Manual, which shall depict the Contractor's general plan for accomplishing the diving operations required

under this contract. The Diving Operations Manual shall be reviewed by the Contracting Officer's Representative prior to commencing of any diving operations under this contract. The Diving Operations Manual shall include the following information as a minimum:

- a. A complete copy of 29 CFR Part 1910, Subpart T, and the Contractor's proposed method of complying with each of its pertinent parts.
- b. U. S. Navy Standard Air Decompression Table.
- c. A sample of the Diving Log sheets to be used under this contract.
- d. A sample of the Repetitive Dive Worksheets or equivalent (dive profile method) to be used under this contract.
- e. U. S. Navy Table of No-Decompression Limits and Repetitive Group Designation for No-Decompression Air Dives.
- f. U. S. Navy Residual Nitrogen Timetable for Repetitive Air Dives.
- g. An outline of emergency communications between the dive site and the Contractor's project office (located at the job site); Contractor-furnished portable radios, hardware, telephone hookup, etc.
- h. An outline of proposed treatment and emergency evacuation for drowning, gas embolism, decompression sickness, or traumatic injury.
- i. Emergency assistance information, including location, telephone numbers, and names of nearest doctor, hospital, emergency ground and air transportation, recompression facilities, and other appropriate medical assistance.
- j. An Activity Hazard Analysis Plan, setting forth potential hazards, means of prevention, and actions to be taken should an accident involving the potential hazard occur. Minimum coverage in the Activity Hazard Analysis Plan shall include; means of prevention and procedures for dealing with fire, equipment failure and adverse environmental conditions; drowning, air embolism, decompression sickness, hypoxia, carbon dioxide excess, carbon monoxide excess, strangulation, various type of squeezing, fouling or entanglement, mechanical injury, overexertion/exhaustion, hypothermia, hyperthermia, currents caused by hydraulic differential through the structure, and electrocution and blowup if dry suits are used.
- k. An outline of pre-dive briefings and equipment checkout procedures for daily diving activities under this contract.
- l. An outline of qualifications and experience requirements for the dive team members, required under this contract. As a minimum, each team member shall have at least one (1) year of commercial experience in the applicable position; divers shall have completed at least four (4) working dives to the depths required by this contract, using the particular diving techniques and equipment to be used under this contract. Divers shall demonstrate that at least one (1) of the four (4) qualification dives was performed in the last six (6) months prior to the contract award date.
- m. An outline of the medical qualifications required for divers to be employed under this contract. As a minimum, each diver shall meet the

certification requirements specified in 29 CFR Part 1910, Subpart T and EM-385-1-1, Section 30.

n. An outline of diving equipment, maintenance procedures and certification of analysis of air output for diving air supply compressors to be used under this contract. As a minimum, the equipment maintenance procedures shall indicate method of testing, frequency, and repair methods used. Diving air supply compressors' output air shall be in conformance with the following limits: oxygen - 20 to 22 percent by volume, carbon dioxide - 1,000 ppm maximum, carbon monoxide - 20 ppm maximum, total hydrocarbons - 25 ppm maximum, particulates - 5 mg/cubic meter maximum, and have no objectionable odor.

o. An outline of administrative and record-keeping procedures. As a minimum, the outline shall contain (by title of position) job responsibilities, the chain of command, daily briefing and diving safety orientation procedures, log and diving-related record-keeping responsibilities, equipment maintenance and pre-dive equipment checklist, etc.

#### SD-18 Records

##### Daily Logs

Submit each day, to the Contracting Officer/District Dive Coordinator fully completed copies of the previous day's Diving Log Sheets and any other work sheets prepared in conjunction with the Diving Log Sheets.

##### Diving Plan

Submit, for review, at least 10 days prior to any diving operations, three (3) copies of a Project/Task Specific Dive Plan prior to performing any actual dive task or assignment. Each separate Dive Plan will require review and acceptance by the Contracting Officer's Representative prior to commencing any diving required under this contract. A typical Dive Plan (the Contractor may prepare a form with the appropriate subject/item already listed with blank spaces to be filled in as required for each Dive Plan submitted) shall include the following information as a minimum:

- a. Dive Plan for: (project and specific tasks).
- b. Name of Contractor (and diving subcontractor if required).
- c. Contract Number.
- d. Date of Dive Plan submission.
- e. Name of diving supervisor preparing the Dive Plan.
- f. Description of proposed work and diving mission.
- g. Approximate time and date dive mission will start.
- h. Listing of diving equipment to be used.
- i. Name or type of diving platform to be used.
- j. Planned depth of dive and maximum depth to bottom.

k. Maximum single dive bottom time for the planned depth of dive for each diver.

l. Listing of special tools or equipment to be used.

m. Materials to be handled or installed.

n. Listing by name each member of the diving team. The first time each diver is employed on the job, the Contractor shall attach to the dive plan a qualification statement and copy of the diver's current medical record, giving the physician's written report and opinion of the diver's fitness for exposure to hyperbaric conditions, including any limitations to such exposure. The required qualifications statement and current medical report shall be in accordance with EM 385-1-1. Diver's qualification statement and medical record need not be attached to subsequent Dive Plans unless a diver's medical report has expired and a new medical report has been submitted.

o. Listing by name each person directly involved in topside assistance/support to the dive team.

p. Listing of information and equipment required at the dive site. The following information and work materials shall be available at the dive site, either referenced in the Diving Operations Manual or work materials furnished by the Contractor: U. S. Navy Standard Air Decompression Table; Diving Log Sheets; Repetitive Dive Worksheets; Table of No-Decompression Air Dives; means of direct emergency communications between the dive site and the Contractor's project office, the Dive Coordinator/Dive Inspector; stop watch or equivalent, as required to monitor times for each diver; standard first aid supplies; litter or tilt board and a manual resuscitator capable of administering oxygen.

q. Listing of information required at the dive site and the project office; local emergency medical assistance names, locations and telephone numbers for ambulance service, hospital, and doctor; emergency medical evacuation assistance for ground and/or air transportation facilities with point of contact names, locations and telephone numbers; nearest emergency medical facility with hyperbaric chamber capable of recompression equivalent to 165 feet of water, with point of contact names, location and telephone numbers.

r. The Dive Plan shall contain the following statement: "If for any reason the diving plan, as accepted, is altered in scope of mission, depth, personnel, or equipment, the Philadelphia District Diving Coordinator shall be contacted in order to review the proposed diving plan revision prior to the actual diving operation." (24 Hrs).

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 RESTRICTIONS

Only air-supplied diving within the No-Decompression Limits, using the previously cited U. S. Navy Diving Tables, will be permitted under this contract, unless otherwise accepted by the Contracting Officer. Any deviation from or modification to the U. S. Navy Diving Tables, proposed by the Contractor, shall be submitted at the time the Diving Operations Manual



is submitted, with any such deviation or modification clearly identified for review purposes.

### 3.2 DOCUMENTS AVAILABILITY

One (1) copy of the accepted Diving Operations Manual (to be kept in D.O.) and one (1) copy of the appropriate accepted Diving Plan shall be available at the dive site while diving operations are underway.

### 3.3 COORDINATION

All Diving activities shall be conducted with full knowledge and close coordination with the Contracting Officer and Dive Coordinator. Divers shall not enter the water or move from prescribed location without the acceptance of the Dive Inspector or Dive Coordinator.

### 3.4 PRE-DIVE CHECK

Prior to the dive and at the scene of the dive, the Contractor will meet with the USACE diving inspector and shall insure, as a minimum, the following pre-dive checks are performed:

- a. Breathing air tanks contain sufficient air supply to perform the required work, i.e., standby air tanks are on site and full to the capacity (3,000 psi). A pressure reading shall be taken to insure that approximately 3,000 psi of breathing air is contained.
- b. All diving equipment shall be checked for proper function prior to diver entry.
- c. All necessary safety equipment specified hereinbefore are on site and functioning properly.
- d. Lockout/tagout procedures are followed and the diving supervisor is in possession of the key or keys.
- e. Crane signals are reviewed and radio communications with the crane operator is functioning properly, when applicable.
- f. Welding or cutting procedures are clearly reviewed, the proper welder polarity is set and precautions have been taken to insure that electrocution will not occur.
- g. A pre-dive briefing shall be given which includes but is not limited to, the accident management plan, activity hazards analysis, equipment check list, diving logs, diving conditions, and diving procedures.

### 3.5 DIVE TEAM CREW REQUIREMENTS

The following dive team members are required as the minimum crew manning levels:

Comply with EM 385-1-1, Appendix N, Table III.

#### 3.5.1 Surface-Supplied Air Mode

All working dives requiring communications between the Divers and topside to direct crane load movements, etc., shall be performed in surface-supplied air mode. The minimum crew manning level consists of the

In-water Diver, Stand-by Diver, Diver Tender, and Dive Supervisor. A member of the crew shall be responsible for radio communications and timekeeping. Surface-supplied air gear shall include hardwire communications and a diver carried air reserve.

### 3.6 MEASUREMENT AND PAYMENT

The work specified in this section will not be measured for payment and all costs in connection therewith shall be included in the costs of all the associated bid items.

-- End of Section --

SECTION 01300

SUBMITTAL PROCEDURES

PART 1 GENERAL

1.1 SUMMARY (Not Applicable)

1.2 REFERENCES (Not Applicable)

1.1 SUBMITTAL CLASSIFICATION

SD-07 Schedules

Review and Complete Submittal Register (ENG Form 4288); GA CO. Deviations from the Plans and Specifications; GA CO. Updated Submittal Register (ENG Form 4288); GA CO.

Submittals are classified as follows:

1.1.1 Government Approved

Governmental approval is required for extensions of design, critical materials, deviations, equipment whose compatibility with the entire system must be checked, and other items as designated by the Contracting Officer. Within the terms of the Contract Clause entitled: SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION, they are considered to be "shop drawings."

1.1.2 Information Only

All submittals not requiring Government approval will be for information only. They are not considered to be "shop drawings" within the terms of the Contract Clause referred to above.

1.2 APPROVED SUBMITTALS

The approval of submittals by the Contracting Officer shall not be construed as a complete check, but will indicate only that the general method of construction, materials, detailing and other information are satisfactory. Approval will not relieve the Contractor of the responsibility for any error which may exist, as the Contractor under the CQC requirements of this contract, is responsible for the dimensions and design of adequate connections, details and the satisfactory construction of all work. After submittals have been approved by the Contracting Officer, no resubmittal for the purpose of substituting materials or equipment will be given consideration unless accompanied by an explanation of why a substitution is necessary.

1.3 DISAPPROVED SUBMITTALS

The Contractor shall make all corrections required by the Contracting Officer and promptly furnish a corrected submittal in the form and number of copies as specified for the initial submittal. If the Contractor considers any correction indicated on the submittals to constitute a change to the contract, notice in accordance with the Contract Clause entitled: CHANGES shall be given promptly to the Contracting Officer.

1.4 WITHHOLDING OF PAYMENT

Payment for materials incorporated in the work will not be made if required approvals have not been obtained.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 GENERAL

The Contractor shall submit all items listed on the Submittal Register (ENG Form 4288) or specified in the other sections of these specifications. The Contracting Officer may request submittals in addition to those listed when deemed necessary to adequately describe the work covered in the respective sections. Units of weights and measures used on all submittals shall be the same as those used in the contract drawings. Submittals shall be made in the respective number of copies and to the respective addresses set forth below. Each submittal shall be complete and in sufficient detail to allow ready determination of compliance with the contract requirements. Prior to submittal, all items shall be checked and approved by the Contractor and each respective transmittal form (ENG Form 4025) shall be signed and dated certifying that the accompanying submittal complies with the contract requirements. Proposed deviations from the contract requirements shall be clearly identified. Submittals shall include items such as: Contractor's, manufacturer's, or fabricator's drawings; descriptive literature including (but not limited to) catalog cuts, diagrams, operating charts or curves; test reports; test cylinders; samples; O&M manuals (including parts list); certifications; warranties; and other such required submittals. Submittals requiring Government approval shall be scheduled and made prior to the acquisition of the material or equipment covered thereby.

3.2 SUBMITTAL REGISTER (ENG FORM 4288)

Attached to this section is a Submittal Register (ENG Form 4288) listing each item of equipment and material for which submittals are required by the specifications. Columns "d" thru "r" have been completed by the Government. The Contractor shall complete columns "a", "b", "c" and "s" through "u". The Contractor shall review, complete and submit, in triplicate, the completed register listing all submittals and dates, to the Contracting Officer at the pre-dredging coordination meeting. In addition to those items listed on ENG Form 4288, the Contractor shall furnish submittals for any deviations from the plans and specifications at the pre-dredging coordination meeting. The scheduled need date shall be recorded on the register for each item for control purposes. The approved submittal register will become the scheduling document and will be used to control submittals throughout the life of the contract. Scheduling shall be coordinated with the approved construction progress chart. The Contractor's CQC system manager shall review the listing at least every 30 days and take appropriate action to maintain an effective system. Copies of updated or corrected listings shall be submitted to the Contracting Officer at least every 60 days, in triplicate. Payment will not be made for any material or equipment which does not comply with contract requirements.

3.3 SCHEDULING

Submittals covering component items forming a system or items that are interrelated shall be scheduled to be coordinated and submitted

concurrently. Certifications to be submitted with the pertinent drawings shall be so scheduled. In completing the register, a minimum of 30 calendar days, exclusive of mailing time, shall be allowed for review and approval, or possible resubmittal for all listed submittals. No delays, damages or time extensions will be allowed for time lost in late submittals.

### 3.4 TRANSMITTAL FORM (ENG FORM 4025)

The transmittal form (ENG Form 4025), attached at the end of this section, shall be used for submitting both Government approved and information only submittals in accordance with the instructions on the reverse side of the form. This form shall be properly completed by filling out all the heading blank spaces and identifying each item submitted. Special care shall be exercised to ensure proper listing of the specification paragraph and/or sheet number of the contract drawings pertinent to the data submitted for each item.

### 3.5 SUBMITTAL PROCEDURE

Paragraph (g) of the Contract Clause entitled: SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION, is modified as specified herein. Submittals shall be made to the address set forth below. Submittals shall be made as follows:

#### 3.5.1 Submittals for Contracting Officer Approval

The Contractor shall submit, by the most expedient means, a total of five copies of all submittals listed on the Submittal Register (ENG Form 4288), to the Contracting Officer Representative (COR).

COR mailing address:

US Army Corps of Engineers  
Philadelphia District  
Attn: CENAP-OP-TS  
Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390

#### 3.5.2 Deviations

For submittals which include proposed deviations requested by the Contractor, the column "variation" of ENG Form 4025 shall be checked. The Contractor shall set forth in writing the reason for any deviations and annotate such deviations on the submittal. The Government reserves the right to rescind inadvertent approval of submittals containing unnoted deviations.

##### 3.5.2.1 Completion of Work

Upon completing the work under this contract, the Contractor shall furnish one set of prints of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the items covered by the shop drawings are completed and accepted.

### 3.6 CONTROL OF SUBMITTALS

The Contractor shall carefully control his procurement operations to ensure that each individual submittal is made on or before the Contractor scheduled submittal date shown on the approved "Submittal Register."

### 3.7 GOVERNMENT APPROVED SUBMITTALS

Upon completion of review of submittals requiring Government approval, the submittals will be identified as having received approval by being so stamped and dated. Three (3) copies of the submittal will be retained by the Contracting Officer and remaining copies of the submittal will be returned to the Contractor.

### 3.8 INFORMATION ONLY SUBMITTALS

Normally submittals for information only will not be returned. Approval of the Contracting Officer is not required on information only submittals. These submittals will be used for information purposes. The Government reserves the right to require the Contractor to resubmit any item found not to comply with the contract. This does not relieve the Contractor from the obligation to furnish material conforming to the plans and specifications and will not prevent the Contracting Officer from requiring removal and replacement of nonconforming material incorporated in the work. This does not relieve the Contractor of the requirement to furnish samples for testing by the Government laboratory or check testing by the Government in those instances where the technical specifications so prescribe.

#### 3.8.1 MEASUREMENT AND PAYMENT

No separate measurement or payment will be made for the work specified in this section and all costs in connection therewith shall be included in the costs of all the bid items.

-- End of Section --

(ER 415-1-10)

**ENG FORM 4288**

DACW61-00-B-0013





(ER 415-1-10)

ENG FORM 4288

DACW61-00-B-0013



SUBMITTAL REGISTER

CONTRACT NO.

TITLE AND LOCATION		CONTRACTOR										SPECIFICATION SECTION	
Maintenance Dredging, Schuylkill River												01040	

a.	TRANS-MITTAL NO.	c.	SPECIFICATION PARAGRAPH NUMBER	e.	TYPE OF SUBMITTAL										CLASSI-FICATION	CONTRACTOR SCHEDULE DATES			CONTRACTOR ACTION		GOVERNMENT ACTION		REMARKS																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																
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(ER 415-1-10)

**ENG FORM 4288**

DACW61-00-B-0013







## SUBMITTAL REGISTER

(ER 415 1-10)

CONTRACT NO.	
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### TITLE AND LOCATION

CONTRACTOR

SPECIFICATION SECTION

# Maintenance Dredging, Schuylkill River

**01430**

[illegible]













INSTRUCTIONS

1. Section I will be initiated by the Contractor in the required number of copies.
2. Each transmittal shall be numbered consecutively in the space provided for "Transmittal No.". This number, in addition to the contract number, will form a serial number for identifying each submittal. For new submittals or resubmittals mark the appropriate box; on resubmittals, insert transmittal number of last submission as well as the new submittal number.
3. The "Item No." will be the same "Item No." as indicated on ENG FORM 4288-R for each entry on this form.
4. Submittals requiring expeditious handling will be submitted on a separate form.
5. Separate transmittal form will be used for submittals under separate sections of the specifications.
6. A check shall be placed in the "Variation" column when a submittal is not in accordance with the plans and specifications--also, a written statement to that effect shall be included in the space provided for "Remarks".
7. Form is self-transmittal, letter of transmittal is not required.
8. When a sample of material or Manufacturer's Certificate of Compliance is transmitted, indicate "Sample" or "Certificate" in column c, Section I.
9. U.S. Army Corps of Engineers approving authority will assign action codes as indicated below in space provided in Section I, column i to each item submitted. In addition they will ensure enclosures are indicated and attached to the form prior to return to the contractor. The Contractor will assign action codes as indicated below in Section I, column g, to each item submitted.

A	--	Approved as submitted.	E	--	Disapproved (See attached).
B	--	Approved, except as noted on drawings.	F	--	Receipt acknowledged.
C	--	Approved, except as noted on drawings. Refer to attached sheet resubmission required.	FX	--	Receipt acknowledged, does not comply as noted with contract requirements.
D	--	Will be returned by separate correspondence.	G	--	Other (Specify)
10. Approval of items does not relieve the contractor from complying with all the requirements of the contract plans and specifications.

(Reverse of ENG Form 4025-R)



SECTION 01400

CONTRACTOR QUALITY CONTROL

PART 1 GENERAL

1.1 SUMMARY

The Contractor shall establish and maintain an effective quality control system in compliance with the Contract Clause entitled: "Inspection of Construction." The quality control system shall consist of plans, procedures, and organization necessary to provide materials, equipment, workmanship, fabrication, and dredging operations which comply with contract requirements.

1.2 PRE-DREDGING COORDINATION MEETING

Before the start of dredging, the Contractor shall meet with the Contracting Officer (CO) or his authorized representatives (COR) and discuss the Contractor's quality control system. During the meeting, a mutual understanding of the system details shall be developed, including the forms for recording the CQC operations, control activities, testing, administration of the system for both onsite and offsite work, and the interrelationship of Contractor's management and control with the Government's inspection. Minutes of the meeting shall be prepared and signed by both the Contractor and the CO or COR. The minutes shall become a part of the contract file. There may also be occasions when subsequent conferences will be called to reconfirm mutual understandings.

1.3 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-08 Statements

Final Quality Control Plan; GA CO

The Contractor shall furnish for review by the Government, not later than 10 days after receipt of Notice to Proceed, the Contractor Quality Control (CQC) Plan proposed to implement the requirements of the Contract Clause entitled: INSPECTION OF CONSTRUCTION. The plan shall identify personnel, procedures, instructions, tests, records, and forms to be used.

Interim Quality Control Plan; GA CO

The Government will consider an interim plan for the first 30 days of operation. This plan shall be submitted at the Pre-Dredging Coordination Meeting.

Notification of Proposed Changes to the Quality Control Plan; GA CO

Proposed changes to the Contractor quality control plan shall be submitted for approval.

SD-18 Records

Inspection Reports; GA CO

Daily quality control reports including preparatory and initial phase minutes shall be submitted on a daily basis as specified in the Paragraph entitled: "Documentation".

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 QUALITY CONTROL PLAN

3.1.1 General

If the Contractor fails to submit an acceptable QC plan within the time herein prescribed, the CO or COR may refuse to allow dredging to start if an acceptable interim plan is not furnished or withhold funds from progress payments in accordance with the Contract Clause entitled: "Payments Under Fixed-Price Construction Contracts" until such time as the Contractor submits an acceptable final plan.

3.1.2 Quality Control Plan

This plan shall include as a minimum, the following:

- a. A description of the QC organization, including a chart showing lines of authority and acknowledgment that the Contractor QC staff shall implement the three phase control system for all aspects of the work specified and shall report to the project manager or someone higher in the Contractor's organization.
- b. The name, qualifications, duties, responsibilities and authorities of each person assigned a QC function.
- c. A copy of the letter to the QC manager signed by an authorized official of the firm, which describes the responsibilities and delegates the authorities of the QC manager shall be furnished.
- d. Procedures for scheduling and managing submittals, including those of subcontractors, offsite fabricators, suppliers and purchasing agents.
- e. Control testing procedures for each specific test. (Laboratory must be Corps of Engineers certified.)
- f. Reporting procedures including proposed reporting formats.
- g. A list of the definable features of work. A definable feature of work is a task which is separate and distinct from other tasks and has separate control requirements.

3.1.3 Acceptance of Plan

Acceptance of the Contractor's QC Plan is required prior to the start of dredging. Acceptance is conditional and will be predicated on satisfactory performance during the contract period. The Government reserves the right to require the Contractor to make changes in its QC Plan and operations as necessary to obtain the quality specified.

#### 3.1.4 Notification of Changes

After acceptance of the QC Plan, the Contractor shall notify the CO in writing of any proposed changes. Proposed changes are subject to acceptance by the CO or COR.

### 3.2 QUALITY CONTROL ORGANIZATION

#### 3.2.1 QC System Manager

The Contractor shall identify an individual, within his organization at the site of the work, who shall be responsible for overall management of CQC and have the authority to act in all CQC matters for the Contractor. This CQC System Manager shall be acceptable to the CO or COR.

#### 3.2.2 Personnel

A staff shall be maintained under the direction of the system manager to perform all QC activities. The actual strength of the staff during any specific work period may vary to cover work phase needs, shifts, and production or placement rates. The personnel of this staff shall be fully qualified by experience and technical training to perform their assigned responsibilities and shall be directly hired by and work for the prime Contractor.

### 3.3 CONTROL

Contractor Quality Control is the means by which the Contractor assures himself that his dredging operations comply with the requirements of the contract plans and specifications. The controls shall be adequate to cover all dredging operations, including disposal area preparation and operation, and shall be keyed to the proposed dredging sequence. The controls shall include at least three phases of control for all definable features of work as follows:

a. Preparatory Phase. This phase shall occur prior to beginning work on any definable feature of work. It shall include a review of contract requirements; a check to assure that all materials and/or equipment have been tested, submitted and approved; a check to assure that provisions have been made to provide required control testing; examination of the work area, including all disposal areas, to ascertain that all preliminary work has been completed; and a physical examination of materials, equipment and sample work to assure that they conform to approved shop drawings or submittal data and that all materials and/or equipment are on hand. The Contracting Officer Representative shall be notified at least 24 hours in advance of beginning any or the required action of the preparatory phase. The results of the preparatory phase actions shall be documented by separate minutes prepared by the CQC representative and attached to the daily QC report. Subsequent to the preparatory phase and prior to commencement of dredging, the Contractor shall instruct applicable workers as to the acceptable level of workmanship required in his CQC Plan in order to meet contract requirements.

b. Initial Phase. This phase must be accomplished at the beginning of a definable feature of work. This phase shall include a check of preliminary work, verify full compliance, establish level of workmanship, resolve all differences, and check safety to include compliance with hazard analysis. The Contracting Officer's

Representative shall be notified at least 24 hours in advance of beginning the initial phase. Separate minutes of this phase shall be prepared by the CQC representative and attached to the daily QC report. The initial phase shall be repeated for each new crew to work on site, or if acceptable standards of workmanship are not being met.

c. Follow-Up Phase. Daily checks shall be performed to assure continuing compliance with contract requirements, including control testing, until completion of the particular feature of work. Such inspections shall be made a matter of record in the CQC documentation as required below. Final follow-up inspections shall be conducted and test deficiencies corrected prior to the start of additional features of work.

### 3.4 COMPLETION INSPECTION

Upon completion of dredging in each acceptance section or individual work assignment area specified in Section 02880 DREDGING of these specifications, the CQC System Manager shall conduct a completion inspection of the work and develop a "punch list" of items which do not conform to the approved plans and specifications. Such a list shall be included in the CQC documentation as required below, and shall include the estimated date by which the deficiencies will be corrected. The Contractor QC System Manager or his staff shall make a second completion inspection to ascertain that all deficiencies have been corrected and so notify the COR. The completion inspection and any deficiency corrections required by this paragraph will be accomplished within the time stated for completion of the entire work or any particular increment thereof if the project is divided into increments by separate completion dates.

### 3.5 DOCUMENTATION

The Contractor shall maintain current records of QC operations, activities, and tests performed including the work of suppliers and subcontractors. These records shall be on the Daily Construction Quality Control Report form, a copy of which is attached to this section of the specifications and shall include factual evidence that required activities or tests have been performed, including but not limited to the following:

- a. Type and number of control activities and tests involved.
- b. Results of control activities or tests.
- c. Nature of defects, causes for rejection, etc.
- d. Proposed remedial action.
- e. Corrective actions taken.
- f. In addition, these records shall indicate a description of trades working on the project, the number of personnel working, the weather conditions encountered, any delays encountered, and acknowledgment of instructions given by Government representative. These records shall cover both conforming and defective or deficient features and shall include a statement that equipment and materials incorporated in the work comply with the contract.



### 3.6 NOTIFICATION OF NONCOMPLIANCE

The CO will notify the Contractor of any noncompliance with the foregoing requirements. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose of notification. If the Contractor fails or refuses to comply promptly, the CO may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

#### 3.6.1 MEASUREMENT AND PAYMENT

No separate measurement or payment will be made for the work specified in this section and all costs in connection therewith shall be included in the costs of all the bid items.

--End of Section--



(Sample of typical Contractor Quality Control Report)

CONTRACTOR'S NAME  
(address)

DAILY CONSTRUCTION QUALITY CONTROL REPORT

Contract No. \_\_\_\_\_ Date \_\_\_\_\_

Project Name \_\_\_\_\_ Report No. \_\_\_\_\_

Weather \_\_\_\_\_

Phases of Construction in Progress (Give briefly only phase or phases of work in progress)

Material and/or Equipment Delivered to Site (Including equipment demob)

Inspection Made (Include negative inspections, phase of in-progress construction work inspected and all deficiencies noted during inspections)

Preparatory

Initial

Follow-up



Tests Performed and Results or Tests ( including results of tests taken on previous dates)

Verbal Instructions Received (List any instructions given by Contracting Officer personnel on construction deficiencies, retesting required etc., with action to be taken)

Changed Conditions/Delays/Conflicts Encountered

Remarks

SIGNATURE \_\_\_\_\_  
Quality Control Inspector

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Contractor's Verification: The above report is complete and correct and all material and equipment used and work performed during this reporting period are in compliance with the contract and specifications except as noted above, and job safety and health requirements are in accordance with the USACE Safety and Health Requirements Manual EM 385-1-1.

\_\_\_\_\_  
Contractor's Approved Authorized Representative



SECTION 01430

ENVIRONMENTAL PROTECTION FOR DREDGING

PART 1 GENERAL

1.1 SUMMARY

This section covers the furnishing of all labor, material and equipment and performing all work required for the protection of the environment during dredging and disposal operations except, for those measures set forth in other sections of these specifications.

1.2 GENERAL

For the purpose of this specification, environmental protection is defined as the retention of the environment in its natural state to the greatest extent possible during dredging and disposal operations and to enhance the natural appearance in its final condition. Environmental protection requires consideration of air, water, and land resources and involves noise, solid waste-management and management of other pollutants. In order to prevent, and to provide for abatement and control of any environmental pollution arising from the dredging and disposal activities in performance of this contract, the Contractor and his subcontractors shall comply with all applicable Federal, state, and local laws and regulations and shall obtain all necessary permits required by same.

1.3 NOTIFICATION

The Contracting Officer will notify the Contractor in writing of any non-compliance with the aforementioned Federal, state, or local laws or regulations. Such notice, when delivered to the Contractor or his authorized representative at the site of the work, shall be deemed sufficient for the purpose. The Contractor shall, after receipt of such notice, immediately inform the Contracting Officer of proposed corrective action and take such action as may be approved. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made subject of a claim for extension of time or for excess costs or damages by the Contractor.

1.4 SUBCONTRACTORS

Compliance with the provisions of this section by subcontractors will be the responsibility of the Contractor.

1.5 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-04 Drawings

Location of Storage Facilities; GA CO

Plans showing storage and other construction facilities shall be submitted for approval of the Contracting Officer.

#### SD-18 Records

Environmental Protection Plan; GA CO

Prior to commencement of the work, the Contractor shall submit to the Contracting Officer for approval his proposed environmental protection plan. This shall be followed by a meeting with representatives of the Contracting Officer to develop mutual understandings relative to compliance with this provision and administration of the environmental protection program. Approval of the Contractor's plan for environmental protection will not relieve the Contractor of his responsibility for adequate and continuing control of pollutants.

### PART 2 PRODUCTS (Not Applicable)

### PART 3 EXECUTION

#### 3.1 PROTECTION OF LAND RESOURCES

##### 3.1.1 General

The land resources within the disposal area boundaries and outside the limits of work performed under this contract shall be preserved in their present condition or be restored to a condition after completion of dredging that will appear to be natural and not detract from the appearance of the area. The Contractor shall confine his disposal activities to areas defined by the plans and specifications or to Contractor furnished disposal areas as approved by the Contracting Officer. The following additional requirements are intended to supplement the requirements of the Contract Clauses.

##### 3.1.2 Prevention of Landscape Defacement

Except in areas indicated on the plans or specified to be cleared, the Contractor shall not deface, injure, or destroy trees or shrubs, nor remove or cut them without the authority of the Contracting Officer. Ropes, cables, or guys shall not be fastened to or attached to any existing nearby trees for anchorages unless specifically authorized. Where such special emergency use is permitted, it shall be performed in such a manner as to avoid damage to the trees. The Contractor shall in any event be responsible for any damage resulting from such use. Where the possibility exists that trees may be defaced, bruised, injured, or otherwise damaged by the Contractor's equipment or operations, the Contractor shall adequately protect such trees. Stone, earth or other material that is displaced into uncleared areas shall be removed. Monuments and markers shall be protected before construction operations commence.

##### 3.1.3 Restoration of Landscape Damage

Any tree, turfed areas or other landscape feature scarred or damaged by the Contractor's equipment or operations shall be restored to a condition satisfactory to the Contracting Officer. Restoration of scarred and damaged trees shall be performed in an approved manner by experienced workmen. Trees damaged beyond restoration shall be removed and disposed of under requirements for excavation. Trees that are to be removed because of damage



shall be replaced at the Contractor's expense by nursery-grown trees of the same species or a species approved by the Contracting Officer. The size and quality of nursery-grown trees shall also be approved by the Contracting Officer. Any disturbed turfed (grassed) areas shall be seeded and mulched as directed by the Contracting Officer.

#### 3.1.4 Location of Storage Facilities

Contractor's storage and other construction buildings, which are required in the performance of the work, shall be located upon cleared portions of the job site and shall require the written approval of the Contracting Officer. The preservation of the landscape shall be an imperative consideration in the selection of all sites and in the construction of buildings. Where buildings or platforms are constructed on sidehills, the Contracting Officer may require cribbing to be used to obtain level foundations. Benching or leveling of earth may be permitted, depending on the location of the proposed facility.

#### 3.1.5 Post Construction Cleanup or Obliteration

The Contractor shall obliterate all signs of temporary construction facilities, excess materials, or any other vestiges of construction as directed by the Contracting Officer. The area will be restored to near natural conditions which will permit the growth of vegetation thereon.

### 3.2 RECORDING AND PRESERVING HISTORICAL AND ARCHAEOLOGICAL FINDS

All items having any apparent historical or archaeological interest which are discovered in the course of any dredging and disposal activities shall be carefully preserved. The Contractor shall leave the archaeological find undisturbed and shall immediately report the find to the Contracting Officer so that proper authorities may be notified.

### 3.3 PROTECTION OF WATER RESOURCES

#### 3.3.1 General

The Contractor shall not pollute any streams, rivers or waterways with fuels, oils, bitumens, calcium chloride, acids, insecticides, herbicides or other harmful materials. The Contractor shall investigate and comply with all applicable Federal, state, county, and municipal laws concerning pollution of rivers and streams.

#### 3.3.2 Disposal

Disposal of any debris resulting from the contract work and any wastes, effluents, trash, garbage, oil, grease, chemicals, etc., in or adjacent to the work area will not be permitted. If any waste material is dumped in unauthorized areas, the Contractor shall remove the material and restore the area to its original condition. If necessary, contaminated ground shall be excavated, disposed of as directed by the Contracting Officer, replaced with suitable fill material, compacted and finished with topsoil, and planted as required to reestablish vegetation.

### 3.4 PROTECTION OF FISH AND WILDLIFE

#### 3.4.1 General

The Contractor shall at all times perform all work and take such steps

required to minimize interference with or disturbance to fish and wildlife. The Contractor will not be permitted to alter water flows or otherwise disturb native habitat adjacent to any disposal area which, in the opinion of the Contracting Officer, are critical to fish and wildlife.

### 3.5 DISPOSAL OF DEBRIS

All debris resulting from dredging operations shall be removed from the disposal area sites, as directed by the Contracting Officer, and disposed of at the Contractor's expense. Such disposal shall comply with all applicable Federal, state, and local laws. Such materials shall be removed from the disposal area sites before the date of completion of the work under these specifications.

### 3.6 MAINTENANCE OF POLLUTION, EROSION AND SEDIMENTATION CONTROL FACILITIES DURING CONSTRUCTION

During the life of this contract, the Contractor shall maintain all facilities constructed for pollution, erosion and sedimentation control under this contract as long as the operations creating the particular pollutant are being carried out or until the material concerned has become stabilized to the extent that pollution is no longer being created. During the contract period, the Contractor shall conduct frequent training sessions on environmental protection. The curricula should include methods of detecting and avoiding pollution; familiarity with pollution standards, both statutory and contractual; and installation and care of vegetative covers, plants and other facilities to prevent and correct environmental pollution.

### 3.7 MEASUREMENT AND PAYMENT

No separate measurement or payment will be made for the work specified in this section and all costs in connection therewith shall be included in the costs of all the bid items.

--End of Section--

SECTION 02880

DREDGING

PART 1 GENERAL

1.1 WORK COVERED BY CONTRACT PRICE

The contract price per cubic yard for dredging shall include the cost of removal and disposal of all materials as specified herein or indicated on the drawings, with the exception of ledge rock, large boulders, rock fragments, wrecks, snags, stumps, and piles which cannot be removed or buried below project depth without blasting. Should ledge rock or other material which cannot be removed without blasting be encountered, the Contractor shall remove therefrom all overlying material which, in the judgment of the Contracting Officer, can be removed. Nothing in this paragraph shall be construed as prohibiting the removal of excepted material by special means at prices agreed upon and approved in accordance with the Contract Clause entitled: "DIFFERING SITE CONDITIONS".

1.2 REFERENCES

The publications listed below form a part of these specifications to the extent referenced. The publications are referred to in the text by their basic designation only.

AMERICAN WOOD-PRESERVERS' ASSOCIATION (AWPA)

AWPA C2 (1995) Lumber, Timbers, Bridge Ties and  
Mine Ties - Preservative Treatment by  
Pressure Processes

CODE OF FEDERAL REGULATIONS (CFR)

33 CFR 156 (1992) Navigation and Navigable Waters,  
Oil and Hazardous Material Transfer  
Operations

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION (PennDOT)

PennDOT Specifications (1994 Edition) Publication 408  
Specifications

ENGINEERING MANUALS (EM)

EM 385-1-1 (1996) Safety and Health Requirements  
Manual

FEDERAL SPECIFICATIONS (FS)

FS MM-L-751 (Rev. H) Lumber; Softwood

SOUTHERN PINE INSPECTION BUREAU (SPIB)

SPIB-01 (1994; Supplements 1 thru 4) Standard  
Grading Rules for Southern Pine Lumber

U.S. DEPARTMENT OF COMMERCE (DOC)

DOC PS 20

(1970) American Softwood Lumber Standard

U.S. ARMY CORPS OF ENGINEERS (COE)

Class 1 Survey

(Oct 1994) Hydrographic Survey Manual

### 1.3 ORDER OF WORK AND DREDGING RESTRICTIONS

Work under this contract shall begin at the downstream end of the project at Acceptance Section 1 and proceed upstream to Acceptance Section 8. Bucket dredging will not be permitted from 1 March through 31 May. No overboard disposal of dredged materials will be permitted. The Contractor shall schedule his work in conformance with these requirements.

### 1.4 CHARACTER OF MATERIALS

The material to be removed to restore the depth within the limits called for in the specifications and drawings, is that composing the shoaling that has occurred since the channel was last dredged, as noted in the Special Clauses. The character of the material is believed to be as indicated by the results of Government-conducted sampling. Illegal dumping along the riverbanks of this project has been documented in the past. As a result, small pockets of trash and/or tires may be encountered during dredging operations. An abstract of bottom samples is contained in Section 00855 ABSTRACT OF BOTTOM SAMPLES. Bidders are expected to examine the site of the work and decide for themselves the character of the materials. This work shall be completed at the Contractor's expense prior to bidding.

### 1.5 SITE CONDITIONS

Bidders are expected to examine the site of the work, including the disposal areas and decide for themselves as to the conditions affecting their operations. See Contract Clause entitled SITE CONDITIONS AND CONDITIONS AFFECTING THE WORK. The entire work site is designated as a hard hat area in accordance with EM 385-1-1.

### 1.6 FUEL OIL HANDLING

The Contractor shall assure that all fuel oil transfer operations to or from his plant comply with all Federal, state, and municipal laws, codes and regulations. The Contractor shall incorporate in his accident prevention program, submitted in compliance with the Contract Clause entitled: "ACCIDENT PREVENTION", sufficient information to demonstrate compliance with 33 CFR 156 and any other applicable laws, codes, and regulations.

### 1.7 GLOBAL POSITIONING SYSTEM (GPS) EQUIPMENT

The Contractor must have a differential GPS, in accordance with the requirements for a Class 1 Survey, as defined in the U.S. Army Corps of Engineers Hydrographic Survey Manual. The Contractor shall provide real time positioning on a computer screen during dredging, and have the capability of playback in 15 minute intervals. The position must be recorded on a disk every 15 minutes and submitted to the Contracting Officer on a monthly basis.

### 1.8 SUBMITTALS

Government approval is required for submittals with a "GA" designation; submittals having an "FIO" designation are for information only. The following shall be submitted in accordance with Section 01300 SUBMITTAL PROCEDURES:

SD-01 Data

Vessel and Equipment List; GA CO

The Contractor shall submit for approval a complete list of all vessels and equipment to be used during the contract, including all dredging plants, supporting vessels, and equipment. The vessel list shall contain the types, the numbers of each, the draft of each, and all other pertinent information.

Sampling Data; GA CO

Water quality sampling data shall be submitted at the end of each month.

SD-08 Statements

Disposal Area Plan; GA CO

The Contractor shall submit to the Contracting Officer for approval, a plan for usage or modification of the Government-furnished disposal area and the development of any Contractor-furnished disposal areas. This plan shall show the area or portions thereof to be used, the locations and cross-sections of proposed dikes, the locations of sluices and drainage structures, including walkways and steel safety cables, and the manner in which the dredged material will be distributed in the area. Plans for any Contractor-furnished rehandling basins and inclosures, including character of materials to be used, means of placement, and cross-sections of proposed dikes and other structures, shall also be submitted for approval by the Contracting Officer.

Pumpout Plan; GA CO

If a hopper dredge is used for the contract work, the Contractor shall submit to the Contracting Officer for approval, a plan for pumpout of dredged material. If a bucket dredge is used for the contract work, the Contractor shall submit a hydraulic unloading system plan for approval by the Contracting Officer. Plans shall include the description, dimensions, and locations of proposed facilities.

SD-09 Reports

Daily Report of Operations; GA CO

The Contractor shall prepare, maintain, and submit daily for approval, a Daily Report of Operations forms, and shall furnish signed copies thereof with the Quality Control Reports required in SECTION 01400: CONTRACTOR QUALITY CONTROL, to the Contracting Officer. A copy of the Daily Report of Operations forms to be used are attached at the end of this section. Further instructions on the preparation and submittal of the forms will be provided at the Pre-Dredging Coordination Meeting.

SD-18 Records

Disposal Area Effluent Measurements; FIO

Records of disposal area effluent measurements and corrective action taken shall be submitted daily to the Contracting Officer.

#### GPS Positioning; FIO

The real time positioning of the dredge shall be recorded on a computer disk every 15 minutes and submitted to the Contracting Officer on a monthly basis.

## PART 2 PRODUCTS

### 2.1 TIMBER FLASH-BOARDS

All lumber for flash-boards shall be Southern Yellow Pine, dense structural grade, and shall conform to the SPIB-01 and the applicable requirements of FS MM-L-751. Flash-boards shall be surfaced four sides and the dress size shall conform to DOC PS 20. Flash-boards shall be pressure-preservative treated with chromated copper arsenate (water-borne solution) in accordance with AWWA C2 to have a minimum net retention of solid preservative of 2.5 pounds per cubic foot. Flash-boards shall be 4 inch nominal thickness.

### 2.2 STONE

Stone used to construct ramps over any discharge pipelines shall be PennDOT #2A stone, in accordance with the PennDOT Specifications Section 703.

## PART 3 EXECUTION

### 3.1 DISPOSAL OF EXCAVATED MATERIAL

#### 3.1.1 General

The material excavated shall be transported, deposited and confined as specified within the disposal area shown on the Contract Drawings, or within any disposal area furnished by the Contractor, as approved by the Contracting Officer. The Fort Mifflin disposal area shown on the Contract Drawings, will only be available for the disposal of material excavated by hydraulic or hopper dredge. The Government will not furnish a rehandling basin, docking facilities, or a disposal area for disposal of material dredged by bucket dredge under this contract.

#### 3.1.2 Misplaced Material

Any material deposited in places other than those designated or approved by the Contracting Officer, or which escapes from places designated or approved by the Contracting Officer for disposal, will not be paid for. The Contractor may be required to remove such misplaced material in accordance with Contract Clause entitled OBSTRUCTION OF NAVIGABLE WATERWAYS, and deposit it where directed at the Contractor's expense.

#### 3.1.3 Hydraulic Dredging

Material excavated by hydraulic pipeline dredging shall be transported by pipeline to final position in the approved disposal area without the use of rehandling basins or placing in scows or other similar vessels. Material excavated by hopper dredging shall be loaded into bins or hoppers not to exceed overflow and pumped directly into the approved disposal area by a means which will prevent the loss of any material into the river prior to

deposition in the disposal area. Special care shall be taken to assure that hoppers do not leak during any phase of the contract work.

For all methods of dredging, all pipelines shall be kept in good condition at all times, and any leaks or breaks along their length shall be promptly and properly repaired. All discharge piping crossing the navigation channel shall be submerged to a minimum depth, as specified in the Special Clause entitled: " SC-5 PHYSICAL DATA".

#### 3.1.4 Bucket Dredging

##### 3.1.4.1 General

Material excavated by bucket (bucket, drag or dipper) dredges shall be placed in scows to overflow only, and transported to either an approved enclosed basin, dumped, and then rehandled by hydraulic dredge to an approved disposal area, or to a mooring where the scows shall be unloaded by pumping directly to an approved disposal area. All rehandling operations either from underwater basins or by direct pumping from moored scows shall be in accordance with the applicable requirements for hydraulic dredging. All scows shall be kept in good condition and the coamings kept in good repair. The decks of all loaded scows shall be washed before they are moved from the loading area.

##### 3.1.4.2 Rehandling

No Government-furnished rehandling basin is available for the contract work. Dump scows shall have their pockets provided with proper doors or appliances to prevent leakage of materials. Underwater rehandling shall be performed in enclosed basins furnished by the Contractor and approved by the Contracting Officer. The rehandling basins shall be totally enclosed, except for one entrance channel having a maximum opening of 300 feet measured at mean low water. The dumping location shall not be closer than 800 feet from the center of the entrance opening within the enclosure. Dikes or other structures required to enclose the rehandling basins shall have top elevations not less than 10 feet above the Corps of Engineers Delaware River datum. Material dumped within the rehandling basins shall be removed daily by the rehandling dredge. Scows shall be dumped only within the marked limits of the approved rehandling basins. All rehandling operations shall be maintained to the satisfaction of the Contracting Officer.

a. Navigation Markers: The Contractor shall mark the limits of the rehandling basins and enclosures. Lights and signals as may be prescribed by the U.S. Coast Guard and as necessary to show the limit markers shall be installed and maintained by and at the expense of the Contractor. The Contractor shall apply for and obtain the approval of the U.S. Coast Guard for such signals and lights.

b. Restoration: Upon completion of the work, the Contractor will be required to leave the site in which the basins were located at no higher elevation than existed prior to construction of the basins and any dikes or other structures for enclosing the basins that have been constructed offshore of mean high water shall be removed by the Contractor and the river bottom restored to the elevation which existed prior to their construction.

##### 3.1.4.3 Direct Pumpout Rehandling

When scows are unloaded without dumping, they shall have their contents pumped directly into the approved disposal area by a means which will preclude any loss of material to the river or canal prior to deposit in the disposal area. The location and development of the mooring for direct pumpout operations will be subject to approval by the Contracting Officer.

### 3.2 CONTRACTOR-FURNISHED DISPOSAL AREAS

The Contractor shall undertake the coordination with Federal and state agencies as specified in Section 01040 COORDINATION FOR CONTRACTOR-FURNISHED DISPOSAL AREAS. As specified in that section, use of these areas will be subject to the approval of the Contracting Officer.

### 3.3 DEVELOPMENT AND OPERATION OF DISPOSAL AREAS

#### 3.3.1 General

Prior to the use or modification of any Government-furnished disposal area or construction for development of any Contractor-furnished disposal areas, the Contractor shall submit the disposal area plan specified in the Paragraph entitled: "SUBMITTALS" to the Contracting Officer for approval. At least 7 days prior to the use or modification of any Government-owned land or facilities, the Contractor shall contact Mr. Harry Faulls, Fort Mifflin Project Office, at (215) 365-1892/0342. The Contractor shall conduct his work in accordance with the approved plan; however, approval of the plan by the Contracting Officer does not in any manner relieve the Contractor of his responsibility for the adequacy of the design and construction of the required structures and drainage facilities. The Contractor shall be responsible for the maintenance and repair of all Government-owned land, roads and facilities used by him under the contract. All Contractor-owned dredging pipe (shore or submerged) used in the contract work shall be removed from the site by the Contractor within 30 days of completion of all dredging work.

#### 3.3.2 Construction and Maintenance

##### 3.3.2.1 Government-Furnished Upland Disposal Areas

a. If the Contractor elects to use the disposal area shown on the Contract Drawings, he may use the existing retaining dikes, sluices and drainage structures and shall make all repairs, strengthening, extensions and modifications to such facilities as are necessary for confining the excavated material and for controlling disposal area effluent until acceptance of all work under the contract. The Contractor shall clear the area within and around the sluices of all vegetation and debris. The Contractor will be permitted, in the Government-furnished disposal areas, to construct any other structures or use any means necessary to control the dredge effluent as required to meet these specifications, with approval from the Contracting Officer.

b. The Contractor shall be responsible for the maintenance, repair and stability of all dikes, roads and structures used by him under the contract, and shall inspect the dikes on a daily basis to assure their safety and stability. The Contractor shall restore all dikes, roads, and areas he disturbs through his operations to a satisfactory condition as approved by the Contracting Officer, at no additional cost to the Government. The Government will have the right to regulate the use of the disposal area throughout the contract.



c. The Contractor shall provide his own pipelines and they shall enter the Government-furnished disposal area only within the discharge limits shown on the Contract Drawings. The Contractor shall be responsible for obtaining any required right-of-ways for his operations. The end of all discharge pipes shall be located inside the disposal area limits at a distance not less than 40 feet from the dike centerline. The Contracting Officer reserves the right to direct the extension of Contractor-furnished pipelines beyond the discharge limits shown on the Contract Drawings if required for efficient management of the disposal area. The Contractor shall obtain written permission from the Contracting Officer prior to entering on or utilizing any property owned or leased by the Government other than diked disposal areas.

d. The Contractor shall construct a ramp over any discharge pipeline that crosses any existing access road. The ramp shall be constructed using State of Pennsylvania #2A stone. Upon removal of the pipeline, the Contractor shall spread the 2A material evenly over the existing road surface.

#### 3.3.2.2 Special Requirements for Government-Furnished Disposal Areas

Borrow for diking material may be obtained from within the disposal area but not closer than 40 feet from the inside toe of the dike sections. Wetting or drying of borrow material shall be performed as required to obtain optimum practical moisture content. Borrow material and the ground surface upon which it is to be placed shall be free of all debris, timber and accumulations of vegetation. Dike material shall be placed in approximately equal layers not exceeding 12 inches in loose thickness and shall be compacted by the controlled traffic of spreading and/or hauling equipment over each layer. The borrowing of material from the area outside the existing perimeter dikes will not be permitted. The Contractor shall provide at his own expense all impervious material required for mitigation of seepage problems during disposal operations from an approved off-site source if suitable material is unavailable from within the disposal area.

#### 3.3.2.3 Contractor-Furnished Disposal Areas

In the approved disposal areas, the Contractor shall provide retaining dikes, sluices and drainage facilities as required to confine the excavated material and for controlling disposal area effluent and shall be responsible for the maintenance and stability of the disposal areas until acceptance of all work under the contract.

#### 3.3.2.4 Additional Requirements for Government-Furnished and Contractor-Furnished Disposal Areas

a. A freeboard of two feet or more, measured vertically between the retained materials and water and the top of the adjacent confining dikes, shall be maintained at all times during the operation of the disposal area. If the required freeboard is not met, the Contractor shall stop pumping into the disposal area until corrective means have been taken which are satisfactory to the Contracting Officer.

b. Pipe type sluices will not be permitted through exterior dikes, and at no time will the dredge pipe be permitted to enter the disposal area through an exterior dike. The hydraulic placing of perimeter dikes will not be permitted.

c. Development of the Contractor-furnished disposal areas or any

modifications to the Government-furnished disposal area shall be done so as to prevent obstruction of drainage on upland areas adjacent thereto, and to leave free, clear and unobstructed, outfalls of sewers, drainage ditches, and other structures affected by the disposal operations. The dredged materials shall be distributed within the used portion of the disposal area in a reasonably uniform manner so as to permit full drainage without ponding on the fill surface during and after fill operations.

d. The Contractor shall ensure that all sluice boxes have structurally sound access walkways with handrails on both sides of the walkway. The walkways shall be constructed from the top of the dike to the sluices, along the frontage of the sluice structure, and along the entire length of each individual sluice box to enable the inspector to readily obtain the samples of the mixture going over the sluices as hereinafter specified. Timber used to construct the walkways shall be in accordance with the requirements for the sluice box timber and in accordance with Section 21 of EM 385-1-1.

e. Prior to pumping material into the disposal area, the Contractor shall weld 1-inch diameter steel rings to the underside of the upper cross members on each end of all sluices. The Contractor shall attach a 3/8-inch steel cable to these rings which will run the length of each sluice. The cables shall be used to attach full body safety harnesses for employees working on the sluices.

f. The Contractor shall provide a full body safety harness for employees and Government inspectors to use during the installation and removal of sluice boards and the taking of samples from the sluice. Each person working on the sluice will wear the safety harness and attach it to the cable installed on each sluice.

g. The Contractor shall have a minimum of 2 personnel at the disposal area when work (disposal or other) is being done at a disposal area, and a generator with a light plant sufficient to light the sluice area during darkness. The disposal area personnel shall have radio communication with the dredge at all times.

### 3.4 CONTROL OF DISPOSAL AREA EFFLUENT

#### 3.4.1 General

The Contractor shall monitor disposal area conditions to maintain sufficient freeboard, as described in the Paragraph entitled: "Additional Requirements for Government-Furnished and Contractor-Furnished Disposal Areas", and to maintain effluent quality as prescribed below. Sluice height shall be reviewed by the Contractor on a continuing basis to insure that the optimum height needed to satisfy both of these requirements is employed at all times. The Contractor shall be required to raise the elevation of the crest of the sluice or to stop pumping into the disposal area and permit the fill to settle whenever the density of the samples of the mixture of suspended material and water discharged over the sluice is greater than 8 grams per liter at the sluice at the Fort Mifflin disposal area or any other sluice which discharges outside of an approved disposal area. This shall include disposal areas where material is being rehandled in accordance with the Paragraph entitled: "DISPOSAL OF EXCAVATED MATERIAL". Samples for density determination shall be taken, tested, and recorded by the Contractor. Samples at the sluice shall be taken as often as required and at least twice daily at times when the flow is at maximum

rate and after the dredge has been operating continuously for not less than the time required for solids in suspension to flow from the discharge pipe to the sluice. The minimum frequency of sampling at the sluice shall be increased when effluent density increases or nears the maximum specified. The Contracting Officer may require the Contractor to increase the frequency of sampling if he deems it necessary. All density determinations including times of sampling shall be recorded on the Daily Report of Operations forms required in the Paragraph entitled: "CONTRACTOR QUALITY CONTROL".

#### 3.4.2 Special Requirements for Fort Mifflin Disposal Area

If the Contractor elects to use the Fort Mifflin disposal area, the Contractor shall discharge into Area C. The Contractor shall maintain an effluent density at the sluice of less than 8 grams per liter at all times.

#### 3.4.3 Effluent Density

Each sample at the sluice shall be made up by partially filling, without overflow, a one-quart container with the mixture flowing over the sluice at not less than ten different places in the length of the sluice and combining the mixture in a bucket or other suitable container. When settled solids are not present in the sample, the density may be determined by the hydrometer method or the weight-volume method as hereinafter specified. When settled solids are present, the density shall be determined by the weight-volume method.

a. Hydrometer Method: When the hydrometer method is used for density determination, an instrument similar or equal to Catalog No. 11556F, Fisher Scientific Company shall be used. The hydrometer shall be used as specified by the manufacturer.

b. Weight-Volume Method: When the weight-volume method is used for density determination, the total sample shall be measured to obtain volume in liters and weight in grams. Measurements shall be made with a 1,000 c.c. laboratory cylinder and a scale or balance capable of weighing the sample and cylinder to the nearest gram. The unit weight shall then be obtained by dividing the total weight in grams by the total volume in liters.

#### 3.4.4 Timber Flash-Boards

The Contractor shall provide, prior to commencement of pumping, a sufficient number of flash-boards for the sluice, as required, for the retention of dredged material under this contract and shall assure that the entire sluice length is effective. Strong solution for brush treatment shall be available at the site and all cut surfaces shall be heavily brushed.

#### 3.4.5 Continuing Effluent Control

Upon completion and acceptance of a work assignment, the Contractor shall provide continuing, intermittent labor to assure that effluent control is continued beyond the completion of dredged discharge into the disposal area. Control, including the removal of flash-boards, shall be continued until water impoundment is reduced to that which existed prior to the commencement of disposal into this area. The time required for effluent control beyond completion and acceptance of the work assignment shall not be considered part of the completion time for the contract.

### 3.5 OVERDEPTH AND SIDE SLOPES

#### 3.5.1 Overdepth

To cover inaccuracies of the dredging process, material actually removed from within the contract limits shown on the Contract Drawings to a depth of not more than 1 foot below the required depth, limited by a vertical plane through the required depth contour, will be estimated and paid for at the contract unit price for dredging. Specifically, the Contractor shall meet the following requirements:

a. Stations 0+600 to 20+487: Dredging of this portion of the 33-foot project channel will be required within the authorized channel limits to a depth of 33 feet Schuylkill River Datum, plus 1-foot allowable overdepth limited by a vertical plane through the 33-foot contour, with no side or end slopes (box cut).

b. Stations 20+487 to 22+665: Dredging of this portion of the 26-foot project channel will be required within the authorized channel limits to a depth of 26 feet Schuylkill River Datum, plus 1-foot allowable overdepth limited by a vertical plane through the 26-foot contour, with no side or end slopes (box cut).

#### 3.5.2 Side and End Slopes

No side or end slopes are specified for this contract.

#### 3.5.3 Excessive Dredging

Material taken from beyond the limits specified in the Paragraphs entitled "Overdepth" and "Side and End Slopes" will be deducted from the total amount dredged, and deemed excessive dredging for which payment will not be made. Nothing herein shall be construed to prevent payment for the removal of shoals performed in accordance with the applicable requirements of the Special Clauses entitled: "FINAL EXAMINATION AND ACCEPTANCE" and "SHOALING".

### 3.6 ESTIMATED QUANTITIES

The total estimated quantity of material necessary to be removed within the specified limits as shown on the drawings, including allowable overdepth is as follows for each of the acceptance sections:

Acceptance Section	Station to Station	Req'd Dredging (CY) (33 ft. Depth)	Allowable Overdepth(1')	Total (cy) Available
1	0+600- 4+015	6,539	15,382	21,921
2	4+015- 7+565	588	1,179	1,767
3	7+565-10+763	7,662	4,577	12,239
4	10+763-13+582	11,241	8,110	19,351
5	13+582-16+023	6,616	3,659	10,275
6	16+023-17+328	26,256	6,686	32,942
7	17+328-20+487	79,846	17,286	97,132
Subtotals		138,748	56,879	195,627

		Req'd Dredging (CY) (26 ft. Depth)	Allowable Overdepth(1')	Total(cy) Available
8	20+487-22+665	36,812	9,044	45,856
<hr/>				
	TOTALS	175,560	65,923	241,483

### 3.7 LIMIT OF DREDGING

#### 3.7.1 General

The areas to be dredged are the contract limits as indicated on the Contract Drawings, as specified in the Special Clause entitled: "FINAL EXAMINATION AND ACCEPTANCE", and as defined by dredging prism indicated in the Paragraphs entitled: "OVERDEPTH AND SIDE SLOPES" and "MEASUREMENT AND PAYMENT".

#### 3.7.2 Quantity Acceptance

The Contractor is responsible for completing all dredging requirements for each acceptance section prior to acceptance of the work by the Government. In any portion of an acceptance section, when the before dredging survey indicates dredging is required, the Contractor is responsible for removing any required material found to be remaining above the depth by the after dredging survey, unless such dredging is waived by the Contracting Officer. Material removed as a result of redredging within the dredging contour, will be paid for at the contract unit price and as determined by the quantity calculation resulting from the before dredging survey. In any portion of an acceptance section, when the after dredging survey indicates dredging is required that was not indicated by the before dredging survey, the Contractor shall be responsible for removing such material to the required depth, unless waived by the Contracting Officer. The Contractor will be paid for such work at the contract unit price and an additional quantity calculation will be made based on the after dredge survey, provided that the material is not determined by the Contracting Officer to be misplaced material.

### 3.8 CONTRACTOR QUALITY CONTROL

The Contractor shall prepare and maintain Daily Report of Operations forms, and shall furnish signed copies thereof with the Daily Quality Control records required in Section 01400 CONTRACTOR QUALITY CONTROL to the Contracting Officer. Copies of the Daily Report of Operations forms to be used are attached at the end of this section. Further instructions on the preparation and submittal of the forms will be provided at the Pre-Dredging Coordination Meeting.

### 3.9 MEASUREMENT AND PAYMENT

#### 3.9.1 Mobilization and Demobilization

All costs connected with the mobilization and demobilization of all of the Contractor's dredging plant and equipment will be paid for at the contract lump sum price for this item. Sixty percent (60%) of the lump sum price will be paid to the Contractor upon completion of his mobilization at the

first work assignment area. The remaining forty percent (40%) will be included in the final payment for work under this contract.

In the event the Contracting Officer considers that the amount in this item (60%) which represents mobilization, does not bear a reasonable relation to the cost of the work in this contract, the Contracting Officer may require the Contractor to produce cost data to justify this portion of the bid. Failure to justify such price to the satisfaction of the Contracting Officer, will result in payment of actual mobilization costs, as determined by the Contracting Officer at the completion of mobilization, and payment of the remainder of this item in the final payment under this contract. The determination of the Contracting Officer is not subject to appeal.

All costs connected with the mobilization and demobilization of the Contractor's dredging plant and equipment as defined below shall be included in the contract lump sum price for Bid Item No. 1, "Mobilization and Demobilization" as listed in the Bidding Schedule.

a. Mobilization shall include all costs for operations accomplished prior to commencement of actual dredging operations; i.e., transfer of dredge, attendant plant, and equipment to site; initial installation of pipe; preparation of disposal area, including sluices, drainage structures and building of walkways; and other incidentals in advance of the actual dredging operations.

b. Demobilization shall include general preparation for transfer of plant to its home or standby base, removal of pipelines, cleanup of disposal areas, and transfer of plant to its home or standby base.

### 3.9.2 Disposal Area Costs

All costs in connection with the development and cleanup of disposal areas shall be included in the contract lump sum price for Bid Item No. 1 "Mobilization and Demobilization", as listed in the Bidding Schedule. Maintenance of the disposal area, and effluent control shall be included in the contract unit price for Bid Item No. 2, "Removal & Satisfactory Disposal of Material".

### 3.9.3 Dredging

The total amount of material removed and to be paid for under the contract, will be measured by the cubic yard in place. Measurement of the number of cubic yards in place will be made by computing the volume between the bottom surface shown by soundings of the last survey made before dredging and the bottom surface shown by the soundings of surveys made as soon as practicable after the work specified in each acceptance section has been completed. The volume for measurement shall include the material within the limits specified in the Paragraph entitled: "OVERDEPTH AND SIDE SLOPES", less any deductions that may be required for misplaced material as described in the Paragraph entitled: "DISPOSAL OF EXCAVATED MATERIAL". The volume of material removed will be computed by using the average end area method. Volume computations will be generated using all depths obtained by the single transducer sounding techniques or multi-transducer sweeps, or both, on the lines designated to obtain the average end areas. All survey data used for volume computations will be available to the Contractor upon request. Payment for dredging will be made at the contract unit price for Bid Item No. 2, "Removal and Satisfactory Disposal of Material" as listed in the Bidding Schedule.

#### 3.9.3.1 Surveys for Acceptance

The Contractor shall notify the Government of his need for acceptance surveys at least three days in advance of the date for each survey (Saturdays, Sundays and holidays are excluded), and shall confirm his need by telephone between 0730 and 0800 hours on the day of each survey by calling O & M Section at (Area Code 215) 656-6750. The Contractor shall schedule the before-dredging survey for an acceptance section within 2 weeks of the expected start date of dredging operations. Only one before-dredging survey will be provided for each acceptance section. The time for any redredging to remove shoals and for second and subsequent surveys in any acceptance section is the responsibility of the Contractor, and must be accomplished within the completion period. The Contractor may accompany the survey party to determine whether he at his own election will perform redredging. The Contracting Officer will notify the Contractor if any redredging is required.

#### 3.9.3.2 Existing Conditions

The drawings as listed under the Special Clause entitled: "CONTRACT DRAWINGS, MAPS AND SPECIFICATIONS" are believed to accurately represent conditions existing at the time indicated, but the depths shown thereon will be updated, as required, by soundings taken prior to the commencement of dredging. Determination of quantities removed and the deductions made therefrom to determine quantities by place measurement to be paid in the area specified, after having once been made, will not be reopened, except on evidence of collusion, fraud, or obvious error.

#### 3.9.3.3 Hydrographic Survey Equipment

Hydrographic surveys under this contract will be accomplished with the use of either laser, microwave or DGPS positioning equipment. In addition, these surveys will be performed by single transducer sounding techniques or multi-transducer sweeps, or both. Bottom soundings will be made by a survey fathometer operating on a frequency of 194-206 Khz. The fathometer will be calibrated daily by the bar or ball check method or sound velocity profiler to account for variations of speed of sound in water.

#### 3.9.3.4 Partial Payment Quantity Determination

Monthly partial payments will be based on acceptance sections completed as determined by soundings or sweepings taken behind the dredge by the Government survey party.

-- End of Section --





DAILY REPORT OF OPERATIONS									
DREDGE		CONTRACT NO.		DATE		RCS ENKW-31 [Feeder]			
LOCATION OF WORK		(Range, Stationing, Longitudinal Position)		CONTRACTOR		CHARACTER OF WORK			
DISPOSAL AREA OR REHANDLING BASIN		LENGTH OF DISCHARGE OF PIPELINE:		Ft.		Ft.			
CHARACTER OF MATERIAL AND PERCENTAGE OF EACH		Pontoons		Shore		Ft.			
Gravel									
AVERAGE DEPTH (Feet and Tenths)		Before Dredging		After Dredging		WEATHER			
NUMBER OF MEN		MAN HOURS		Payment Depth		MAN HOURS TO DATE			
ITEM		UNIT		AMOUNT		DISTRIBUTION OF TIME			
						EFFECTIVE WORKING TIME			
						Dredging			
Av. width of cut		Feet							
Area dredged		Sq. Ft.							
Distance advanced this period		Feet							
Distance advanced previously		Feet							
Distance advanced to date		Feet							
Amt. dredged this period		Cu. Yds.							
Amt. dredged previously		Cu. Yds.							
Total amt. dredged to date		Cu. Yds.							
ATTENDANT PLANT									
ITEM		NAME		HOURS					
Tugboat									
Tugboat									
Launch									
Barges									
Barges									
Scows									
Derrick									
COMMODITIES CONSUMED									
ITEM		UNIT		QUANTITY					
Fuel oil		Gals.							
Lubricants		Gals.							
Lubricants		Pounds							
Water		Gals.							
TOTAL TIME IN PERIOD									
No. of Supervisory Inspections: By field personnel				By office personnel					
REMARKS (Attach additional sheet, if necessary)									







DAILY REPORT OF OPERATIONS - HOPPER DREDGES					REPORTS CONTROL SYMBOL NAPOP-1	
DISTRICT					DREDGE	
EXACT LOCATION OF WORK				<input type="checkbox"/> MAINTENANCE <input type="checkbox"/> NEW WORK	DATE	
					NUMBER OF PERSONS IN CREW	
Av. Length of Cut	Ft.	CHARACTER OF MATERIAL			Hopper Capacity	Cu. Yds.
Av. Width of Cut	Ft.	Density of Mat. In Place	GMS/Liter	Av. Vol. of Residual	Cu. Yds.	
Av. Dist. To Disposal	Miles	Density of Water	GMS/Liter At	Av. Unfilled Capacity	Cu. Yds.	
Navigation And Other Dredging Aids (Describe and include statement on Adequacy and Recommendations)						
WORK PERFORMED				DRAFT FOR LOAD IS: (for one load only)		
DREDGING & HAULING		AGITATING		LIGHT      LOADED		
No. Of Loads	Total Cu. Yds. Delivered	Disposal Area Mooring Location	Tot. Cu. Yds.	Forward		
				Aft		
				Drag Depth	Max.	Min.
				Indicators Last Checked on		
				Gas Ejectors Used      % of Pumping Time		
DISTRIBUTION OF TIME AND MILES RUN						
EFFECTIVE WORKING TIME		AGITATING (Minutes)	DREDGING AND HAULING (Minutes)	MILES RUN (Stat. Miles)		
Pumping						
Turning						
To and From Disposal						
Disposal (Includes Docking, Pumping Out, Undocking)						
TOTALS						
NON-EFFECTIVE WORKING TIME						
Taking On Fuel And Supplies						
To And From Wharf Or Anchorage						
Loss Due To Natural Elements						
Loss Due To Traffic And Bridges						
Loss Due To Mooring Barge						
Minor Operating Repairs						
Transferring Between Works						
Lay Time						
Fire And Boat Drills						
Miscellaneous						
TOTALS						
LOST TIME						
Major Repairs And Alterations						
Cessation						
Collisions						
TOTAL LOST TIME						
TOTAL TIME IN PERIOD						
AVERAGE SPEED OF DREDGE			MINUTES RADAR IN USE			
		Feet/Minute	Tide Data Was Obtained By Means Of			
Loading			Length of Pipeline,      Feet			
Agitating			Weather			
Gals. Of Fuel Oil Consumed			NUMBER OF INSPECTIONS BY SUPERVISORY PERSONNEL			
Gals. Of Water Consumed			Field		Office	
REMARKS						
SUBMITTED BY						



LOAD NO.	BREAKDOWN OF LOADS DREDGED AND HAULED													DATE	
	TIME PUMP		MINUTES								CUBIC YARDS			Drag Depth While Loading	MATE AND DRAGTENDERS
	Started	Stopped	Pumping	Turning	To Disposal	Docking *	Pumping Out	Undocking **	To Cut	Total Time	Delivered	Free Dumped	Residual		
	Average														
<b>ECONOMIC LOAD DATA</b>															
Pumping Time (Minutes)			Economic Load (Cu. Yds.)			Test Load No.			Date of Test						
Remarks															
NOTE:															
* Includes time to connect ball joint.															
** Includes time to disconnect ball joint.															

